17-6-310

MT LEGISLATIVE HISTORY

Chapter 677 1983

Bill H 100 S _____ Original bill & hist. ___C

H. Committee on Select on Econ Devl. 1/25 S. Committee on Busn+Ind. 3/23, 3/

Hearing Date(s)		C	Hearing Date(s)		C
	2/3	___C		3/22	___C
	2/21	___C		3/23	___C
	2/23	___C		3/24	___C
	_____	___C		3/28	___C
Date Out	_____	___C		_____	___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 100

INTRODUCED BY KEMMIS, TOWE, VINCENT, HARRINGTON, METCALF, HARPER, SCHYE, DARKO, HANSEN, J. HAMMOND, KADAS, VELEBER, WALDRON, MENAHAN, J. JENSEN, SAUNDERS, MCBRIDE, NISBET, D. BROWN, SCHULTZ, REAM, BACHINI, PECK, FARRIS, O'CONNELL, NILSON, J. BROWN, CONNELLY, LYBECK, KEENAN, ZABROCKI, MCCORMICK, HOWE, DRISCOLL, DAILY, PAVLOVICH, HOLLIDAY, BENGTSON, KENNERLY, SHONTZ, YARDLEY, SPAETH, WILLIAMS, ADDY, NEUMAN, BARDANOUVE, ROUSH, KOEHNKE, FABREGA, BERTELSEN, FAGG, BERGENE, MILLER, HEMSTAD, STIMATZ, HARP, HALLIGAN, ERNST, CRIPPEN, VAN VALKENBURG, ECK, JACOBSON, CONOVER, BERG, MOHAR, MAZUREK, HAFFEY, CHRISTIAENS, LANE, DANIELS, THOMAS, R. MANNING, HAGER

BY REQUEST OF THE GOVERNOR

IN THE HOUSE

January 25, 1983	Introduced and referred to House Select Committee on Economic Development.
February 1, 1983	On motion by Chief Sponsor, Representatives Harrington, Metcalf, et al., were added as sponsors to the bill.
February 21, 1983	Committee recommend bill do pass as amended. Report adopted.
	Statement of Intent attached.
February 22, 1983	Bill printed and placed on members' desks.
February 23, 1983	Second reading, do pass as amended.
	Correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

March 1, 1983	Introduced and referred to Committee on Business and Industry.
March 23, 1983	Committee recommend bill be concurred in as amended. Report adopted.
March 24, 1983	Second reading, pass consideration.
March 25, 1983	Second reading, pass consideration.
March 26, 1983	Second reading, concurred in as amended.
March 28, 1983	Third reading, concurred in. Ayes, 42; Noes, 5.

IN THE HOUSE

March 28, 1983	Returned to House with amendments.
April 1, 1983	Second reading, amendments not concurred in.
	On motion, Conference Committee requested and appointed.
April 14, 1983	Conference Committee dissolved.
	On motion, Free Conference Committee requested and appointed.
April 20, 1983	Free Conference Committee reported.
	Second reading, pass consideration.

April 20, 1983	Free Conference Committee dissolved.
	On motion, new Free Conference Committee requested and appointed.
April 21, 1983	On motion, Free Conference Committee report #2 passed for the day.
April 21, 1983	New Free Conference Committee reported.
	Second reading, new Free Conference Committee report adopted.
	Third reading, new Free Conference Commiteee report adopted.
	New Free Conference Committee report adopted by Senate.
	Sent to enrolling.
	Reported correctly enrolled.

House BILL NO. 100

INTRODUCED BY Dennis Iverson

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT SECTION 3 OF INITIATIVE 95; CREATING AN IN-STATE INVESTMENT FUND TO BE ADMINISTERED BY THE MONTANA ECONOMIC DEVELOPMENT BOARD; PROVIDING FOR TYPES OF INVESTMENTS TO BE MADE; AMENDING SECTIONS 17-6-201 AND 17-6-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. This act may be cited as the "Montana In-State Investment Act of 1983".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 16 and Initiative 95 approved by the people at the election on November 2, 1982], unless the context requires otherwise, the following definitions apply:

(1) "Board" means the Montana economic development board established in [section 19].

(2) "Clean and healthful environment" means an environment that is relatively free from pollution which threatens human health, including as a minimum, compliance with federal and state environmental and health standards.

(3) "Committee" means the economic development oversight committee created by [section 17].

(4) "Financial institution" includes but is not limited to a state- or federally chartered bank or a savings and loan association, credit union, insurance company, development company, or investment banking company.

(5) "Loan participation" means loans or portions thereof bought from a financial institution.

(6) "Locally owned enterprise" means any enterprise 51% of whose stock, partnership interests, or other ownership interests are owned and controlled by residents of Montana.

(7) "Long-term benefit to the Montana economy" means an activity that diversifies and stabilizes the Montana economy and that has the potential to maintain and create jobs, increase per capita income, or increase Montana tax revenues in the future to the people of Montana, either directly or indirectly.

(8) "Montana economy" means any business activity in the state of Montana, including those which continue existing jobs or create new jobs in Montana.

(9) "Montana in-state investment fund" means the fund established by [section 3 of Initiative 95].

(10) "Service fees" means the fees normally charged by a financial institution for servicing a loan, including amounts charged for collecting payments and remitting

amounts to the fund.

NEW SECTION. Section 3. Montana in-state investment fund. The Montana in-state investment fund consists of 25% of the revenue deposited after June 30, 1983, into the permanent coal tax trust fund established in 17-6-203(5) and the principal and interest payments on all investments made from the Montana in-state investment fund.

NEW SECTION. Section 4. Unified investment program. The Montana economic development board and the board of investments shall hold joint meetings at least twice a year as a unified investment board for purposes of coordinating investment strategies, policies, and programs as required by Article VIII, section 13, of the Montana constitution.

NEW SECTION. Section 5. Authorized investments. The Montana in-state investment fund must be invested in the securities authorized as permissible investments under 17-6-211 and in any other type of in-state investment authorized by rules adopted by the board.

NEW SECTION. Section 6. Investment preferences. In deciding which of several investments of equal or comparable security are to be made, the board shall give preference to the business investments that:

(1) are for locally owned enterprises that are either expanding or establishing new operations;

(2) provide jobs that will be substantially filled by

current Montana residents as opposed to providing jobs that will be filled by nonresidents coming into the state to fill such jobs;

(3) maintain and improve a clean and healthful environment, with emphasis on conservation, renewable resources, and alternative energy production; and

(4) benefit small- and medium-sized businesses as defined in rules adopted by the board.

NEW SECTION. Section 7. No direct loans. No money from the Montana in-state investment fund may be used to make direct loans to individual borrowers. Loans or portions thereof originated by a financial institution that are sold to the trust are not direct loans.

NEW SECTION. Section 8. Limitation on size of investments. No investment may be made that will result in any one business enterprise or person receiving a benefit from or incurring a debt to the Montana in-state investment fund the total current accumulated amount of which exceeds 10% of the prior fiscal year's coal severance tax revenue deposited in the Montana in-state investment fund.

NEW SECTION. Section 9. State participation in loans. State participation in any loan to a business enterprise, except for a loan guaranteed by a federal agency, must be limited to 80% of the outstanding loan. The state shall participate in the security for a loan in the same

proportion as the loan participation amount.

NEW SECTION. Section 10. Prior commitment of funds. The board may authorize the commitment of funds to financial institutions pursuant to rules adopted by the board, but the determination as to credit with respect to individual investments must be made by the financial institution and the board.

NEW SECTION. Section 11. Rate of return. In calculating the rate of return for any investment to be made from the Montana in-state investment fund, the board shall consider the long-term benefit to the Montana economy.

NEW SECTION. Section 12. Service charges. The board shall by rule establish reasonable service fees that may be charged on loans made from the Montana in-state investment fund.

NEW SECTION. Section 13. Audit and performance evaluation. (1) The board shall contract for an annual independent financial audit of the board and the Montana in-state investment fund.

(2) The board shall contract for biennial independent operational and performance evaluations of the board and the Montana in-state investment fund.

NEW SECTION. Section 14. Reports and publications. (1) By September 30 of each year, the board shall publish a report for distribution to the governor, the legislature,

and the public. The report must be written in easily understandable language. The report must include:

(a) financial statements audited by independent auditors;

(b) a statement of the amount of money received by the Montana in-state investment fund from each investment during the period covered;

(c) a statement of investments of the Montana in-state investment fund, including an appraisal at market value;

(d) a description of investment activity during the period covered by the report;

(e) a comparison of the Montana in-state investment fund's performance in relation to intended goals contained in [section 1 of Initiative 95];

(f) an examination of the impact of the investment criteria of [sections 5 and 6];

(g) recommendations of any needed changes; and

(h) any other information the board believes would be of interest to the governor, the legislature, and the public.

(2) The annual income statement and balance sheet of the Montana in-state investment fund must be published in at least one newspaper in each judicial district of the state by October 30 of each year.

NEW SECTION. Section 15. Report on potential uses of

coal tax trust fund. The board shall prepare for each regular session of the legislature a report on potential uses of the coal tax trust fund to develop a stable, strong, and diversified Montana economy that meets the needs of present and future generations of Montanans while maintaining and improving a clean and healthful environment as required by Article IX, section 1, of the Montana constitution.

NEW SECTION. Section 16. Rulemaking authority. The board may adopt rules to implement the provisions of [sections 1 through 16] and 17-6-211(5). Rules adopted by the board may include definitions of small- and medium-sized businesses, a method of committing funds to financial institutions, types of service fees, and types of investments to be made. The board may also adopt procedural rules to govern its proceedings.

NEW SECTION. Section 17. Economic development oversight committee. (1) There is an economic development oversight committee.

(2) The committee consists of:

(a) four members of the senate, appointed by the committee on committees; and

(b) four members of the house of representatives, appointed by the speaker of the house.

(3) No more than two members from each house may be of

the same political party.

(4) Members of the committee must be appointed before the 90th legislative day of a regular session.

(5) Appointments to the committee are for 2 years. A member of the committee serves until his term of office as a legislator is ended or his successor is appointed, whichever occurs first.

(6) Vacancies must be filled in the manner specified in 5-18-104 for filling vacancies on the revenue oversight committee.

(7) The committee shall elect one of its members as chairman and any other officers it considers necessary.

NEW SECTION. Section 18. Powers and duties of committee. (1) All rules proposed by the Montana economic development board, created in [section 19], and filed with the secretary of state must be reviewed by the committee.

(2) The committee may:

(a) prepare written or oral recommendations for the adoption, amendment, or rejection of a rule and submit the recommendations to the board, whether or not a rulemaking hearing is to be held;

(b) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through 2-4-305;

(c) recommend to the legislature the repeal, amendment, or adoption of a rule through legislation.

(3) The committee may investigate and issue reports on any matter concerning economic development or any other area of the Montana economic development board's authority.

NEW SECTION. Section 19. Montana economic development board -- allocation -- composition -- quasi-judicial powers. (1) There is a Montana economic development board. Except as otherwise provided in this section, the board is allocated to the department of commerce for administrative purposes only as provided in 2-15-121. The board has authority over its own personnel as provided in [section 20].

(2) The board is composed of seven members, to be appointed by the governor as prescribed in 2-15-124. The board must be broadly representative of the state, seeking to balance professional experience and public accountability.

(3) The board is designated as a quasi-judicial board for the purposes of 2-15-124.

(4) The board may invest the Montana in-state investment fund according to the provisions of [sections 1 through 3 of Initiative 95 and sections 1 through 16] and 17-6-201 and 17-6-211.

NEW SECTION. Section 20. Personnel of board. (1) The Montana economic development board may employ an investment officer, who will have general responsibility for the

selection and management of the board's staff and direction of investment activity. The investment officer serves at the pleasure of the board.

(2) The board may prescribe the duties and annual salary for professional staff positions.

Section 21. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The uniform investment program directed by Article VIII, section 13, of the 1972 Montana constitution to be provided for public funds shall be administered by the board of investments and the Montana economic development board in accordance with the rules provided in this chapter and [sections 1 through 16] and with that degree of judgment and care, under circumstances from time to time prevailing, which men of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived, and preservation of purchasing power of capital during periods of sustained high monetary inflation. Investments by the Montana economic development board are limited to those made from the Montana in-state investment fund and for the purposes set forth in [sections 1 through 16].

(2) All state funds shall be invested and reinvested in securities enumerated in 17-6-211 to the maximum extent

consistent with this policy and with the need and timing of cash expenditures for particular purposes.

(3) The board of investments has the sole authority to invest state funds other than the Montana in-state investment fund. No other agency may invest such state funds. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto any investments made under its general supervision.

(4) The board of investments shall:

(a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;

(b) determine the amount of surplus treasury cash to be invested;

(c) determine the type of investment to be made; and

(d) prepare the claim to pay for the investment.

(5) The board of investments may:

(a) execute deeds of conveyance transferring all real property obtained through foreclosure of any investments purchased under the provisions of 17-6-211 when full payment has been received therefor;

(b) direct the withdrawal of any funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-6-105;

(c) direct the sale of any securities in the program at their full and true value when found necessary to raise

money for payments due from the treasury funds for which the securities have been purchased.

(6) The state treasurer shall keep an account of the total of each investment fund and of all the investments belonging to such fund and of the participation of each treasury fund account therein and shall make from time to time such reports with reference thereto as may be directed by the board of investments.

(7) The cost of administering and accounting for each investment fund shall be deducted from the income therefrom, except that such costs of the trust and legacy fund shall be paid from income otherwise receivable from the pooled investment fund, and the amounts required for this purpose shall be appropriated by the legislature from the respective investment funds."

Section 22. Section 17-6-211, MCA, is amended to read:

"17-6-211. Permissible investments. (1) The following securities are permissible investments for all investment funds referred to in 17-6-203, except as indicated:

(a) any securities authorized to be pledged to secure deposits of public funds under 17-6-103;

(b) bonds, notes, debentures, equipment obligations, or any other kind of absolute obligation of any corporation organized and operating in any state of the United States or in Canada, if the obligations purchased are payable in

United States dollars, or of any corporation in which the United States government is a voting shareholder by act of congress; provided that all investments under this subsection (b) must be rated by one nationally recognized rating agency among the top third of their quality categories, not applicable to defaulted bonds;

(c) commercial paper of prime quality, as defined by one nationally recognized rating agency, issued by any corporation organized and operating in any state of the United States, provided that:

(i) such securities mature in 270 days or less;

(ii) the issuing corporation or the parent company of a finance subsidiary issuing commercial paper, at the time of the last financial reporting period, had a ratio of current assets to current liabilities, including among current liabilities long-term debt maturing within 1 year, of at least 1 1/2 to 1 and had received net income averaging $1 million or more annually for the preceding 5 years; and

(iii) no investment may be made at any time under this subsection (c) which would cause the book value of such investments in any investment fund to exceed 10% of the book value of such fund or would cause the commercial paper of any one corporation to exceed 2% of the book value of such fund;

(d) bankers' acceptances guaranteed by any bank having

its principal office in any state of the United States and having deposits in excess of $500 million;

(e) interest-bearing deposits in banks, building and loan associations, and savings and loan associations located in Montana, provided, however, that the board of investments shall require pledged securities as specified in 17-6-102 (interest on said deposits shall not be less than the prevailing rate of interest being paid on deposits of private funds);

(f) unencumbered real property, first mortgages, and participations in first mortgages on unencumbered real property, provided that:

(i) no such mortgage or mortgage participation may be purchased unless:

(A) the principal amount of the loan secured by the mortgage or mortgage participation is 80% or less of the appraised value of the property;

(B) the principal amount of the loan secured by the mortgage or mortgage participation exceeds 80% of the appraised value of the property but the amount of the loan in excess of 80%, determined at the time the loan was made, is guaranteed or insured by a mortgage insurance company which the board of investments has determined to be a qualified private insurer;

(C) 25% or more of the loan or participation therein

secured is guaranteed or insured in the event of default by the United States of America or an agency thereof; or

(D) the mortgagor has leased the mortgaged property to a person, firm, or corporation whose rental payments under the lease are guaranteed for the full term of the loan or participation therein by an agency of the United States; and

(ii) no investment shall be made at any time under subsection (1)(f) which would cause the book value of such investments in any investment fund to exceed 50% of the book value of such fund.

(2) Investments from the pooled investment fund shall be restricted to fixed income securities described in subsections (1)(a) to (1)(e) above.

(3) Retirement funds and the fund provided for in 17-6-203, subsection (4) may be invested in preferred and common stocks of any corporation organized and operating in any state of the United States provided that:

(a) the corporation has assets of a value not less than $10 million;

(b) if the investment is preferred stock, the corporation's aggregate earnings available for payment of interest and preferred dividends, for a period of 5 consecutive years immediately before the date of investment, have been at least 1 1/2 times the aggregate of interest and preferred dividends required to be paid during this period;

(c) no investment may be made at any time under subsection (3) which would cause the book value of such investments in any retirement fund to exceed 50% of the book value of such fund or would cause the stock of one corporation to exceed 2% of the book value of such retirement fund;

(d) subsection (c) does not apply to funds provided for in 17-6-203(4).

(4) The board of investments shall endeavor to direct its portion of the state's investment business to those investment firms and/or banks which maintain offices in the state and thereby make contributions to the state economy. Further, due consideration shall be given to investments which will benefit the smaller communities in the state. The state's investment business will be directed to out-of-state firms only when there is a distinct economic advantage to the state of Montana.

(5) The Montana economic development board created in [section 19] may invest the Montana in-state investment fund in any in-state investment authorized by its rules in addition to those investments authorized by this section."

NEW SECTION. Section 23. Temporary investment limit. Notwithstanding the percentage figure in [section 8], the investment limit for fiscal year 1984 must be calculated based on 25% of the total coal tax deposits to the permanent

coal tax trust fund made in fiscal year 1983.

NEW SECTION. Section 24. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 25. Effective date. This act is effective on passage and approval.

-End-

STATE OF MONTANA

REQUEST NO. 258-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 27, , 19 83 , there is hereby submitted a Fiscal Note for House Bill 100 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

House Bill 100 creates an in-state investment fund to be administered by the Montana Economic Development Board.

ASSUMPTIONS:

1) Funds available for investment will be $12.332 million for FY 84 and $15.384 million for FY 85.
2) The interest rate is assumed to be the market rate or the same as on the rest of the coal trust fund.
3) Seven (7) member board.
4) Three (3) person staff.

FISCAL IMPACT:

	FY 84	FY 85	Total Biennium
Expenditures under proposed legislation			
Personal Services	$122,984	$122,521	$245,505
Operating Expenses	77,401	80,389	157,790
Equipment	5,010	-0-	5,010
Legislative Oversight Committee	12,500	12,500	25,000
Total Expenditures Under Proposal	$217,895	$214,410	$433,305
Expenditures Under Current Law	$ -0-	$ -0-	$ -0-
Increased Expenditures to state investment fund	$217,895	$215,410	$433,305
Revenue Impact: General Fund revenues will be reduced because earnings on the in-state investment fund will be deposited in the state investment fund rather than into the general fund.	$405,723	$2,076,124	$2,481,847

Continued

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-1-83

NOTE:

Section 11 of House Bill 100 requires the board to consider the long term benefit to the Montana economy when calculating the rate of return for any investment from the fund. If this means that loans are made at less than market rate, then interest earnings will be reduced.

FISCAL NOTE 9:Z/2

STATUS SHEET

ECONOMIC DEVELOPMENT COMMITTEE

Legislature

ll No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
B 100	An act to implement section 3 or initiative 95; creating an in-state investment fund to be administered by the Montana Economic Devel. Bd.	1/25/83	Kemmis, Towe Vincent	2/3/83	Do Pass, as amended	2/20/83
B 125	An act to delete "Credit" from Development Credit Corporations in Montana...and provide an immediate effective date.	1/29/83	Blaylock, Mazurek, Himsl	Referred to House Business & Industry Com.		
HB 685	An Act promoting the availability and investment of devel. capital in Mont. through the creation of capital comp; providing tax credits and investment in the comp.	2/08/83	Harper	2/10/83	Do Pass, as amended	2/20/83
HB 700	An act creating the Mont. Econ. Develop. Board: providing for the powers, duties, and composition of the board; providing authority to issue bonds to finance design. projects.	2/12/83	Fabrega	2/15/83	Do Pass, as amended	2/20/83
HB 721	An act to create a Montana Health facility auth. with power to lend money to health instit. to construct or renovate heath fac; and empowering auth to issue bonds to finance its projects	2/14/83	Wallin	2/17/83	Do Pass, as amended	2/21/83
HB 818	An act to auth. the issuance and sale of gen. oblig. bonds of the state of Mont.	2/15/83	Bengtson	2/17/83	Do Pass as amended	2/20/83

rm CS-32
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MINUTES OF THE SELECT
COMMITTEE ON ECONOMIC DEVELOPMENT

February 3, 1983

The third meeting of the Select Committee on Economic Development was called to order by Chairman John Vincent at 7:25 p.m. in the old Supreme Court Chambers in the Capitol Building, Helena, Montana on February 3, 1983.

Roll call was taken and all members were present.

CHAIRMAN VINCENT stated that we are embarking on a mission of the highest order to implement the will of the people of our state. This is expressed by the overwhelming approval of Initiative 95. He welcomed everyone present to the hearing on HB 100 and introduced the chief sponsor of the bill, Rep. Kemmis.

REPRESENTATIVE KEMMIS explained that HB 100 has been an effort to involve the people of Montana in developing their own economic program. Initiative 95 was intentionally written broadly with a number of areas still to be defined. This was because rather than put before the people something for their approval or disapproval, there would be a plan already worked out as if someone knew exactly what the form of economic development could be. We wanted to put before the people an opportunity to take in their own hands a significant tool for economic development, put some general guidelines into their initiative and then ask them if they approved (which they did). Beyond that we wanted to ask the people exactly how they wanted to implement it. It was for the purpose of asking the people that question, that this committee was established and I hope and am confident that is how the committee will proceed.

I feel that eventhough we have a bill here, there may be some suggestions on how we may improve it, and I welcome those from whatever source and hope the committee will give full consideration to all of those suggestions. He stressed that a number of people have been involved in drafting this legislation, and wanted to especially thank Governor Schwinden, Gary Buchanan, Buster Schriber and the entire Governor's Special Committee for their remarkable work on this bill. He called the committee's attention to the fiscal note that accompanied the bill. He offered an amendment that will change the fiscal note, see Exhibit 1. See also Exhibit 2 for Statement of Intent to HB 100.

He noted that the Statement of Intent that has been prepared is taking a course that he does not necessarily agree with. The intent is in considerable detail how rules should be adopted, and he feels the Statement of Intent should be more general. He then introduced the joint sponsor of HB 100, Senator Towe.

SENATOR TOWE asked permission to read the bill and explain portions of it. He stated that many people have heard the comment there is a shortage of capital in the state of Montana. It is first necessary to distinguish between equity capital and lending capital. Equity capital is high risk, venture capital and not anticipated to be repaid at the moment of interest, but the investment may be sold at a profit at any time. We are not talking about that one. In regard to lending capital, we can do two things. First, we can bring money into the state--and one of the other bills will attempt to do that. The second thing we can do with lending capital is to utilize some of the money already available in the state. We are speaking of that portion of the Coal Tax Trust Fund which under I-95 is to be invested in the state of Montana. He explained portions of HB 100 to the Committee that he felt needed to be clarified.

SENATOR CRIPPEN stated that originally he was against the Initiative. It soon became apparent to him that as a representative of the people, he should be involved as best he could to see that it was implemented properly. He wanted to commend the Committee that was involved and especially Gary Buchanan, who had provided a great deal of insight to the committee. He explained the bill evolved from a lot of compromises. Labor groups, environmentalists, wind machine enthusiasts and others were all involved and they all had to compromise. He said what is the issue of this bill is that there will be additional capital available for small and medium size business in the state. He stated that if the program is a good and workable program, and has a good chance for success for Montana and its people, he feels that he is under obligation to support it in every way possible.

CHAIRMAN VINCENT asked for proponents to the bill.

PROPONENTS

REPRESENTATIVE FABREGA stated he would like to direct his remarks to the New Section 5, lines 14 through 18 on HB 100. He noted that having served in the four previous session, he has felt a strong feeling of frustration toward the investment policies of the state of Montana and mostly blames the Board of Investments and their attitude. This attitude is regarding the prudent person and he feels that section 17-6-211 provided a straight jacket for the prudent person of Montana.

GARY BUCHANAN, Director, Department of Commerce, explained to the committee the flowchart. See Exhibit A.

BUSTER SCHRIBER, Chairman of the Temporary Committee on Development Finance, stated his support of HB 100. He noted there has been tremendous support for I-95, and being on the Board of Investments made him more conscientious of the in-state investor. He noted the Board of Investments has two alterations, and one is the definition of "Financial Institution" on Page 2, line 2, section (4). The board felt the definition should be redefined. The second alteration would pertain to Page 3, section 4 regarding the

powers of the board. These recommendations will be provided to the committee later.

ED JASMIN, President of Northwestern Bank, stated that he has had the opportunity to visit with Mr. Daniels regarding concerns of this proposal. The bank supports this bill and has come out publicly in support of HB 100.

DON JUDGE, Representative of the Montana State AFL-CIO, wanted it noted that they support HB 100. See Exhibit B.

JERRY SULLIVAN, Vice-President of First Security Bank, expressed support of HB 100. He stated that if the funds were available today, it would be possible to make a loan to the gasahol plant, a local nursing home and other businesses that need help. It is necessary to provide jobs for the people of Montana and expand the tax base. In summary, the First Security Bank supports the use of Montana capital for Montana business by Montana lenders.

NANCY HARTE, Legislative Coordinator for the Montana Democratic Party, gave testimony in support of HB 100. See Exhibit C.

STACY A. FLAHERTY, Representative of the Women's Lobbyist Fund, stated their support of HB 100 and said HB 100 puts Montana's money to work for economic development in Montana. See Exhibit D.

TERRY MURPHY, Representative of the Montana Farmers Union, expressed their support of HB 100. He wanted to recommend to the committee in Section 6, regarding Investment Preference, that language be added that would specifically target agriculture and agriculture processing facilities. See Exhibit D-1.

FINN WOLSTAD, Owner of Nordak Company in Great Falls, stated he has been a small business owner for 13 years. He emphasized there is a tremendous shortage of capital in the state of Montana. His original loan with Small Business Administration was for $150,000. His first year in business more than that was paid out in taxes alone. His company makes ski sweaters from Montana wool. He compared the costs of buying knitting machines in 1960 at $6,000 each as to the 1983 knitting machine cost of $62,000 each. In 1960 the legal lending was $300,000. Today to equip the same plant it would cost $4.5 million and the legal lending is $500,000. He stated the largest bank in Montana can only handle a loan for $1.5 million. His research shows there are 18,000 small businesses in Montana, and per capita we have more small businesses than any other state in the union. Eventhough Montana has an excellent university system we are paying to educate our young people and are then sending them out of state to get jobs. He expressed his support of HB 100 and feels that Initiative 95 is a step in the right direction.

JOHN BALFANZ, Vice-President and Sales Manager of Nordak Industries, gave background information on manufacturing winter products. He works for Mr. Wolstad of Great Falls, and stated that Nordak in Great Falls employees 60 people. He stated that Mr. Wolstad cannot grow in the state of Montana. He explained his frustration in getting a loan from any of the banks. He summarized by stating that Mr. Wolstad has been approached to move his Nordak operation to Los Angeles where they are anxious to have his product and will finance all the expansion he needs. He stated this is what happens when a Montana business reaches 1.2 million and hopes to expand. Only Montanans have something to lose by not supporting their own base.

BILL BEAMAN, Vice-President of D.A. Davidson & Co., stated their company in October 1982 issued a press release stating that Initiative 95 was a good way to improve Montana's future. See Exhibit E.

DON REED, Representative for the Montana Environmental Information Center, stated support for HB 100. His group would like to offer several friendly but critical comments. See Exhibit F.

DICK BOURKE, Vice-President of the Development Credit Corporation of Montana, stated this bill is the product of much debate and hard work by individuals representing both professional financial disciplines and the general public and as such should be considered to represent a consensus of these individuals. See Exhibit G.

CAROL DALY, President of the Economic Development Association, expressed their organization feels that Finn Wolstad does not have a unique problem in Montana. Long-term, fixed rate financing has become harder to find, because banks and other lenders are properly wary of tying up their resources with too low a return for too long a period of time. See Exhibit H.

JEFFREY M. KIRKLAND, Representative of the Montana Credit Unions League, expressed support of HB 100. Their League, however, did propose an amendment to HB 100. See Exhibit I.

PAT WILSON, Representative of MONTCO Coal Company, stated her group would like to disagree to the subsection (3), page 4 in regard to renewable resources and alternative energy production. She stated that working for a coal company, they feel by meeting state and federal controls, they are providing a clean and healthy environment. She feels Montana's ace in the hole is its Montana resources, and Montana needs to look at its natural resources as an industry to provide much needed jobs.

JACK TRUZZOLINO, Owner of Truzzolino Food Products Co., Butte, Montana, stated that he tried everything he could to get the amount of capital to expand his business. See Exhibit J. His main concern to HB 100 is the one restriction on the loan fund should be removed, in particular the requirement that a company be 51% Montana owned.

JIM MCNAIRY, Representative of Alternative Energy Resources Organization, stated their support for HB 100. They believe it conforms substantially to Initiative 95 and it represents a good faith attempt to legislatively implement the Initiative. However, they would like to offer several comments on the bill. They hope the Committee will consider amending the bill so that the Board is discouraged from investing in businesses whose primary activity is the extraction or processing of non-renewable resources. Other concerns were explained in Exhibit K.

JOHN HOLLOW, Representative in Home Building Industry, expressed support of this bill. He stated that Finn Wolstad, the previous speaker, would not be eligible for a loan because of the criteria for a small and medium size business. He felt the preferences should be looked at. He noted the home building business will benefit because money will be loaned for the building of a house, so they are not concerned about being on the preference list.

JACK MARTINZ, Superior Fire Apparatus, stated his support of HB 100. His way of doing business was to pay as you go and it has taken him 20 years to get where he is today. He feels that many businesses in Montana do not have 20 years to wait. He stressed there is a crying need for small businesses to have financial help. If we don't get more industries paying taxes in the state of Montana we will be in trouble. He would suggest that everyone put personal preferences aside to help Montana industries grow and add to the economic base in Montana. He stated there is a great deal in financing and promoting Montana products, and he has found it easier to sell his products in other states and countries than in the state of Montana. He feels publicity is needed to bring out the problem of struggling businesses and also promoting the products that are manufactured in Montana.

MIKE FITZGERALD, President of the Montana Trade Commission, stated his organization supports HB 100. He feels that HB 100 is one of the most progressive and superior pieces in Montana for small and medium size businesses. He would particularly like to support the changes in the preferences on page 4, section 6, point (3) emphasizing conservation, renewable resources, and alternative energy productions.

MR. MARCEL, Community Development Director in Polson, supported HB 100. He wanted to relate that a gentleman he knows in his area received an opportunity for a federal contract over $2,000,000. He came within 24 hours of losing that opportunity because of the restraints that came about in putting that financial package together.

KEN MACMAN, Billings Business man, feels this is one of the best pieces of legislation in the state of Montana. He stated he is in the manufacturing business, and that it is indeed difficult to get the money necessary to keep a business going. He has a new product that has a world market and he has found that Montana is the hardest place to develop this product. He feels HB 100 could help many businesses, but in his case it is too late. He is presently looking to move his business either to Canada or Nebraska, because these areas are very interested in his product and don't feel that the economy is too bad to invest in it. He feels that in Section 6, Investment Preferences, something should be added regarding agriculture processing plants.

STEVE BROWN, Lobbyist for Montana Independent Bankers, hardily endorses preference for agricultural businesses. The Bitterroot Valley is an example of a once agricultural area that has since changed. His second suggestion is HB 100 should indicate preference for high unemployed Montana areas. Communities such as Butte and Anaconda already have in place housing and people who want to work. Increase in business in those areas are the best way to stabilize those economies. He noted that in Montana we have an old acid mining draining problem in many of the streams, which were related to past Montana mining practices. He would like to see consideration in the preference section to anyone who would go into an area where there is a pre-existing mining problem if they would improve the area. He stressed that this type of activity would definately want to be encouraged.

CHAIRMAN VINCENT asked for any opponents to HB 100.

OPPONENTS

MONTANA BANKERS ASSOCIATION, submitted written testimony in opposition to HB 100. See Exhibit L.

MONTANA CHAMBER OF COMMERCE, submitted written testimony in opposition to HB 100. See Exhibit M.

CHAIRMAN VINCENT opened the meeting to questions by the Committee.

REP. VINGER asked Sen. Towe to explain the types of loans mentioned in his bill.

SEN. TOWE explained the long term CD and other types of loans.

REP. RAMIREZ asked Mr. Macman exactly what product he was speaking of during his testimony.

MR. MACMAN explained that the product he was referring to was a haybaler that rakes more leaves than any other bale. He noted that his baler has a worldwide market.

REP. FAGG asked Sen. Crippen to explain the different preferential treatment for various types of loans.

SEN. CRIPPEN stated the preferential treatment was probably the most discussed area in their committee. He stated that he personally had a great deal of reservation regarding this. He noted it was intended to be very general, not specific. The reason it was necessary to be general was to provide the Board the discretion it would need to have. He noted that he would love to have more jobs come into the depressed areas, but this bill is meant for the entire state of Montana and not just one local. It is for all parts of the economy, not just for jobs. One of the reasons we have the Economic Development Board rather than the Jobs Development Board is because jobs are one of the three things that make up the economy. The other two are capital and management.

CHAIRMAN VINCENT asked Senator Towe to explain the small and medium size business term adopted by the board in regard to a comment in previous testimony that Mr. Wolstad of Nordak in Great Falls would not be eligible for assistance.

SENATOR TOWE stated that he doesn't know all the details of Nordak, but he feels this company would qualify for assistance, because it meets the Small Business Administration tests. He feels it is necessary to leave this decision to the board, and they can adjust it as the need arises. He wanted the Committee not to be afraid of the word "small", because it is actually quite large.

REP. NEWMAN asked Rep. Kemmis for clarification on financial institutions wording in the bill.

REP. KEMMIS explained the definition of financial institution on Page 2, line 2 is the new language of this bill. He stated he wanted to point out he doesn't quite agree with the Credit Union League assessment to whether or not they would be included in this program. They are not included in the permissible list of investments, but both HB 371 and HB 100 allow investment outside the permissible list. He feels this clearly applies to credit unions without an amendment.

CHAIRMAN VINCENT asked Rep. Kemmis if he would like to close.

REP. KEMMIS thanked those who had testified and participated with the committee in helping to develop this bill. He noted the Montana Bankers Association, who appeared in court today to argue against I-95, had a perfect opportunity tonight to speak to the

public in regard to their opposition rather than slip their testimony under the table. Suggestions this evening in regard to changing parts of the bill have been very constructive, but he would like to suggest a general approach to the matter be kept. The reason I-95 was introduced in the first place was that Montanans really wanted to build a kind of society they wanted and they didn't have to be stimied by the lack of the possibility of building a better economy.

CHAIRMAN VINCENT announced the Committee would now go into Executive Session.

EXECUTIVE SESSION

CHAIRMAN VINCENT asked for discussion on House Bill 325.

REP. HARPER moved that HB 325 be TABLED. It was seconded by REP. VINGER. The motion carried unanimously.

The Committee members discussed the amendments as proposed in House Joint Resolution 11. See Exhibit N.

REP. HARPER moved that House Joint Resolution 11, DO PASS, AS AMENDED. The motion carried unanimously.

The meeting adjourned at 10:20 p.m.

John Vincent
Representative John Vincent
Chairman

Mitzie Grover
Mitzie Grover
Secretary

AMENDMENT TO HB 100:

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT SECTION 3 OF INITIATIVE 95; CREATING AN IN-STATE INVESTMENT FUND TO BE ADMINISTERED BY THE MONTANA ECONOMIC DEVELOPMENT BOARD; PROVIDING FOR TYPES OF INVESTMENTS TO BE MADE: AMENDING SECTIONS 17-6-201 AND 17-6-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE AMENDED AS FOLLOWS:

1. Page 3, line 6.
Following: "principal"
Strike: "and interest"

2. Page 9, line 19.
Following: "board"
Strike: "may"
Insert: "shall"

3. Page 10, line 15.
Following: "which"
Strike: "men"
Insert: "people"

AND AS AMENDED
DO PASS

Ex 1

Statement of Intent - House Bill 100

1) A statement of intent is required for this bill because it grants rulemaking authority to the Montana economic development board in section 16. These rules will include definitions of small and medium-sized businesses, a method of commitment of funds to financial institutions, setting service fees for loans, defining types of permissible investments, and procedural rules to govern the board's proceedings.

2) It is the intent of the legislature that:

a) the definitions of small and medium-sized business be based on either the number of employees of the business, the level of capitalization of the business, or a combination of these factors;

b) the method of committing funds to financial institutions be similar to the method utilized by the board of housing for committing funds for housing developments to financial institutions;

c) the level of service fees be set to cover the costs associated with processing the investment and be similar to those charged by financial institutions;

d) the permissible investments adopted by rules be based on the long-term benefit to the Montana economy and adhere to the prudent-man rule. The investments should be aimed at diversifying, strengthening, and stabilizing the Montana economy and increasing employment opportunities while maintaining and improving clean and healthful environment;

e) the procedural rules be based on the attorney general's model rules.

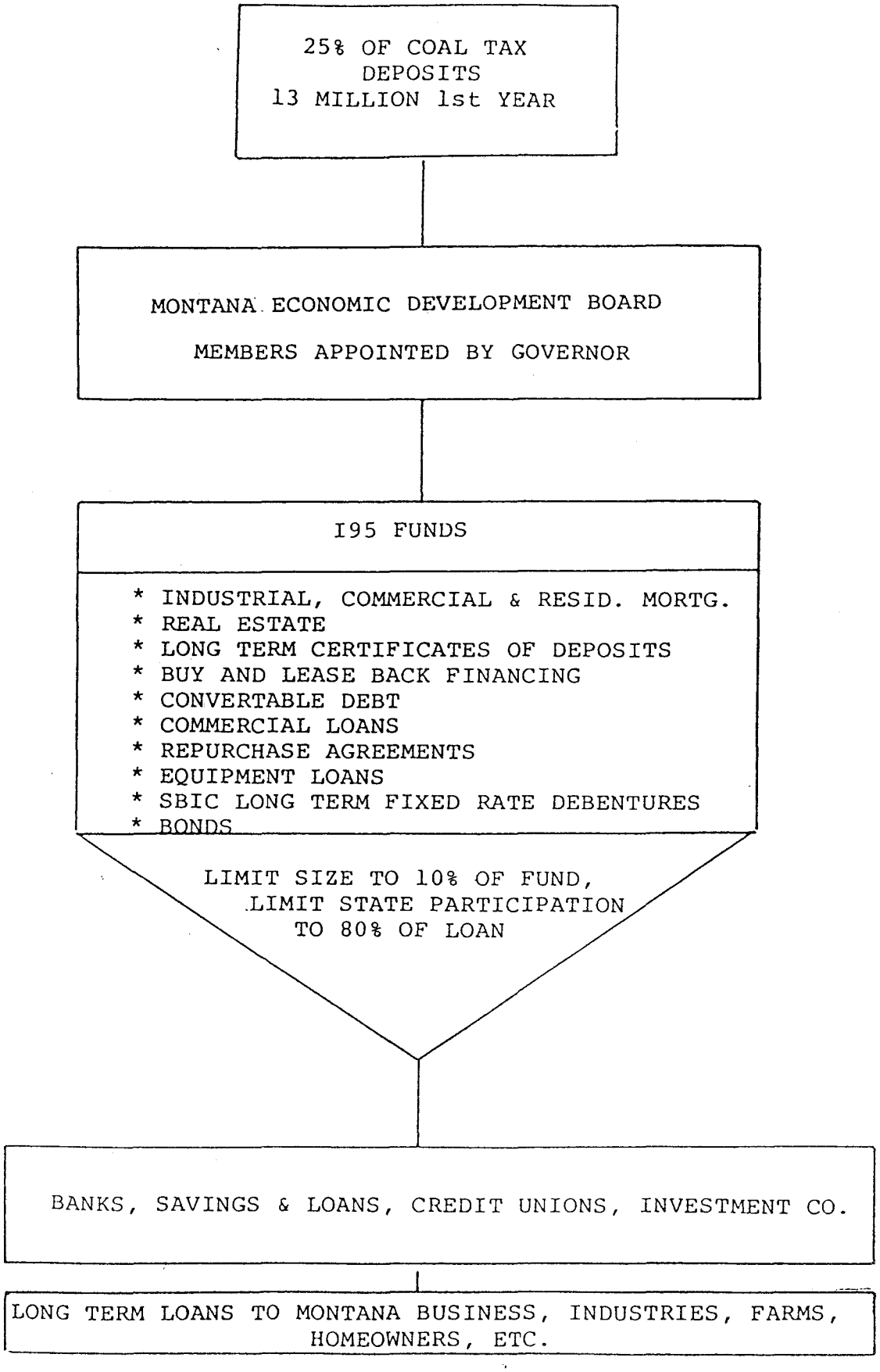
25% OF COAL TAX
DEPOSITS
13 MILLION 1st YEAR
MONTANA ECONOMIC DEVELOPMENT BOARD
MEMBERS APPOINTED BY GOVERNOR
I95 FUNDS
* INDUSTRIAL, COMMERCIAL & RESID. MORTG.
* REAL ESTATE
* LONG TERM CERTIFICATES OF DEPOSITS
* BUY AND LEASE BACK FINANCING
* CONVERTABLE DEBT
* COMMERCIAL LOANS
* REPURCHASE AGREEMENTS
* EQUIPMENT LOANS
* SBIC LONG TERM FIXED RATE DEBENTURES
* BONDS
LIMIT SIZE TO 10% OF FUND,
LIMIT STATE PARTICIPATION
TO 80% OF LOAN
BANKS, SAVINGS & LOANS, CREDIT UNIONS, INVESTMENT CO.
LONG TERM LOANS TO MONTANA BUSINESS, INDUSTRIES, FARMS,
HOMEOWNERS, ETC.

EXHIBIT A

MONTANA STATE AFL-CIO
APRIL 29 1956

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF DONALD R. JUDGE ON HOUSE BILL 100, SELECT COMMITTEE ON ECONOMIC DEVELOPMENT, FEBRUARY 3, 1983

I am Don Judge, representing the Montana State AFL-CIO.

We support House Bill 100. We have several suggestions for amendments to address the targeting of the funds.

The Montana State AFL-CIO supported Initiative 95, as did most of the voting public. The purpose was clearly to invest Montana money in Montana, for the benefit of the Montana economy.

We have no position on most of the details of this enabling legislation. But we do have some thoughts on the targeting of the investments, and some possible amendments.

I-95 was a good idea, but it will provide only a very small amount of money for in-state investment, compared to our economy. The fiscal note assumes that $12.3 million will be available for investment during the first year of operation, and $15.4 million more will be available during the second year. That is a good deal more than I am able to comprehend. But it is very small peanuts when you are talking about the needs of establishing new or expanding existing businesses.

Because the amount is so small, the actual effect on jobs will be minimal. However, it is a step in the right direction of investing Montana money in the way that brings the best return, not just in interest earned, but in new jobs, an expanded tax base, and new revenue from business and individual taxes at all levels of government.

The targeting of this limited amount of capital is important. Targeting says that businesses which meet certain criteria get priority. It is only appropriate, with limited funds, to specify which sorts of businesses are the most desirable for the economic well-being of the state.

It is our proposal to add three additional investment preferences to Section 6 of this bill. These would not lead us to seven absolute categories, which must be met by every business, but rather to seven kinds of criteria which could give a business preference, when an investment offers equal or comparable security to another investment.

OF DONALD R. JUDGE
BILL 100
ARY 3, 1983

First we would like you to consider an amendment giving priority to areas of high and chronic unemployment. If in the opinion of the board, two investment opportunities offer equal return and security, why not target an area which needs it worse? Pennsylvania does this, having its Industrial Development Authority designate "critical economic areas", divided into three levels of seriousness.

In line with the Pennsylvania idea, may we suggest as a beginning point for discussion, amending section 6 on pages 3 and 4, to add a new subsection (5) as follows:

"(5) are made in counties or groups of counties designated as "critical economic areas" by the Montana economic development board. Such areas will be prioritized as areas which (a) have had unemployment rates at least 5% above the state average for the last two years; (b) have had unemployment rates at least 1% above the state average for the last two years; and (c) have had unemployment rates at least 1% above the state average for the last one year;".

We also suggest a new subsection (6) to read as follows:

"(6) pay the prevailing wage for that occupation, or utilize contractors who pay the prevailing wage for any construction made possible by the state investment;".

When businesses pay the prevailing wage, rather than paying poor wages to their employees, those businesses are far more desirable to the state and the communities in which the workers live and spend their paychecks.

A final amendment might be to add subsection (7) as follows:

"(7) meet or exceed the state standards for affirmative action in hiring veterans, women, minorities, and the handicapped."

Here again the intent is obvious. Businesses which are good neighbors ought to have a priority, for the limited funds which are available.

The proposal to have a second board, other than the current Board of Investments, came up in the course of discussions about I--95. It was proposed to ease the conflict between differing sets of criteria for investment of the in-state investment fund and all other funds administered by the Board of Investments. That seems like a good idea, and we feel it should be composed to include representatives of the public and labor.

TIMONY OF DONALD R. JUDGE
USE BILL 100
EBRUARY 3, 1983

We urge you to vote for House Bill 100, and to add the three amendments we have proposed.

Thank you.

MONTANA DEMOCRATIC PARTY

February 3, 1983

TESTIMONY PRESENTED TO THE HOUSE SELECT COMMITTEE ON ECONOMIC DEVELOPMENT SUPPORTING HOUSE BILL 100, TO CREATE AN IN-STATE INVESTMENT FUND.

Mr. Chairman and members of the committee, for the record my name is Nancy Harte, legislative coordinator for the Montana Democratic Party.

House Bill 100 is one of several pieces of legislation that puts into effect Initiative 95, the initiative passed overwhelmingly by the voters of Montana last November. This bill sets up the in-state investment fund through which Montana businesses can benefit from the investments made by the state.

The vote on I-95 was a clear mandate from the people of Montana that they want at least a portion of state coal tax revenues invested in Montana. The package of legislation that will put I-95 into effect is going to be one of the most positive things this Legislature can do to help Montana's economy. It will give Montana's economy a much-needed shot in the arm when it needs it most.

EXHIBIT C

Montana Democratic Central Committee • Steamboat Block, Room 303 • P.O. Box 802 • Helena, MT 59624 • (406) 442-9520

Executive Board

Ron Richards Chairman	Sharon Peterson Vice Chairman	N. J. Dougherty Secretary	Ralph Dixon Treasurer	Joe Lamson Executive Secretary	James Pasma Nat'l Committeeman	Dorothy Bradley Nat'l Committeewoman
Phil Campbell Helen Christensen	Jerry Hudspeth Chas Jeniker	Wilma Jodsaas Junne Johnsrud	Sally Jordan Helen Kerr	Don McKee Bruce Nelson	Rich Pavlomus Howard Toole	Bob Wilkins Bobbie Wolfe

Sen. Chet Blaylock Rep. Dan Kemmis Phillis Moore Sherm Stieg

The by-product of a healthy business economy is jobs. And the impact of the I-95 legislation on employment is so great that the Democratic Party would actually like the Montana Economic Development Board, as it is termed in the bill, to be known as the Montana Jobs Development Board.

We would also concur with testimony presented by other groups here tonight including in section 6, the section that lists preferences in investment, language that would include businesses with Affirmative Action policies for women, minorities and the handicapped; that would target funds towards economically depressed areas and that would give preference to businesses that pay the prevailing wage.

HB 100 is a good bill for workers, business and Montana's economy, and we urge you to pass this bill.

WOMEN'S LOBBYIST FUND

Box 1099
Helena, MT 59624
449-7917

TESTIMONY BY STACY A. FLAHERTY, WOMEN'S LOBBYIST FUND, ON AMENDMENT TO HB 100, BEFORE SELECT COMMITTEE ON ECONOMIC DEVELOPMENT, FEBRUARY 3, 1983

Initiative 95 and HB 100, its implementation are unique kinds of legis] tion for Montana. HB 100 puts Montanans' money to work for economic develop- ment in Montana. It also lists preferences for the kind of Montana we want to see develop. When we wrote our new state Constitution, we made one of the strongest commitments of any state to equality on the basis of sex. (Montana Constitution, Article II, Section 4). Certainly, part of the kind of Montana we want to see develop is one of equal partnership with men and women working together for our economic future. Giving preference to fi which have Affirmative Action plans will promote this goal.

This bill comes at a unique political time given the national context. The Reagan administration has stopped enforcing EEOC (equal employment opportunity) guidelines and affirmative action requirements. In our economi development package giving preferece to firms with Affirmative Action progra will help replace some of the incentive for equal employment opportunities which used to exist at the federal level. With more and more women joining the employed labor force, women heading up more single family households, ar women working to make necessary comtributions to their families' economic needs -- ensuring equal employment opportunities in Montana is more importar now than ever before .

In job training apprenticeship programs, state government hiring, and other programs we have already made a commitment to affirmative action. The same practice needs to be emphasized in our economic development package, especially if we are going to acknowledge the role that women should and do play in economic development. As we take an innovative and bold stride to control our economic future we need to renew our commitme to affirmative action to ensure true equal economic opportunity in Montana.

We urge this committee to include an amendment to HB 100 which would give, among investments of equal or comparable security, investment preferen to firms which have affirmative action plans.

PROPOSED AMENDMENT:

Section 6.p.3-4
Add new subsection (5) following -
"(4) benefit small - and medium-sized businesses as defined in rules adopted by the board." (lines 7-8)

(5) have demonstrable affirmative action plans.

EXHIBIT D

Belinda C. Lake
Lobbyist

SUGGESTED AMENDMENT TO HB 100

Section 6. Investment Preferences. Add new subsection (5) following "(4) benefit small- and medium-sized businesses as defined in rules adopted by the board."

(5) benefit businesses engaged in the processing of Montana's agricultural products.

This amendment seeks to fill one gap in the overall development finance proposals presented to the Select Committee on Economic Development. That is, the important role agriculture plays in the state--now, and in the future--deserves special attention.

As Representative Asay pointed out at the last meeting of the committee, the future of Montana agriculture lies in innovative processing and marketing of our agricultural products.

The idea is to add more value to Montana-produced agricultural products before they leave the state. The processing not only creates jobs in Montana in the processing business; it also improves the markets facing the agricultural industry as a whole.

Such processing facilities could well be organized as cooperatives among those farmers and ranchers whose products would be processed.

The state of Vermont currently has an Industrial Revenue Bond program which is tageted for further processing of agricultural products. As we receive more information about the size, scope and organization of the program, we will inform the committee if they so desire.

EXHIBIT D-1

My name is Bill Beaman. I'm a Vice President of D. A. Davidson & Co., and Office Manager for our Helena, Montana office. D. A. Davidson & Co. is Montana's oldest investment banking firm started in 1935. We have nine (9) offices -- eight located in Montana and one in Williston, North Dakota, and employ approximately 140 people. Our capital position now is about $7 million, which makes us the largest independently owned brokerage firm in the Northwestern United States.

On October 25, 1982, we issued a press release stating that Initiative 95 was a good way to improve Montana's future. Specifically, we felt that not often is there an opportunity that comes along for each of us to take a major step in controlling our State's destiny. We recommended voting YES for Initiative 95 because it was such a step--a chance to make much needed capital available for Montana businesses to expand and to create more jobs and a better Montana economy.

We at D. A. Davidson & Co., Montana's Oldest and Largest Investment Firm,and as a major financial institution , feel an obligation to support Initiative 95.

In line with our very positive stance on Initiative 95, Mr. Gene Hufford, who is our Senior Vice President in charge of our Municipal Bond Department, served on the Governor's temporary committee and the subcommittee for the Umbrella Revenue Bond Bill. Mr. Jon Marchi, who is our Vice President of Marketing and Research, was the Chairman of the Governor's temporary subcommittee for Development Venture Capital. Mr. Marchi's subcommittee developed the Capital Company Concept and that bill is now being drafted. Both Mr. Hufford and Mr. Marchi will be available to

EXHIBIT E

testify when those respective bills are ready to be heard.

There is no question in our minds that there is tremendous need for development equity for Venture-type capital in this State. We see that need every day from all the investors and businessmen that we are in constant contact with. We believe that Initiative 95, through the proper implementation, is a step in the right direction in trying to solve and meet part of that need.

HB 100

Presented to the House Select Committee on Economic Development
By the Montana Environmental Information Center

February 3, 1983

HB 100 not only represents several hundred person hours of work. It also represents a new and different approach to economic development in Montana. All too often in our history, some have advocated reducing environmental, consumer, worker and general public protections as the only means of promoting economic development. Today, that approach is couched in terms of "sending signals" to industry by reducing those same protections.

But sending a signal is a passive act. The signal sender depends upon the reaction of some distant receiver. HB 100 is active. It means actively pursuing our own economic destiny, on our own terms. For that reason alone, HB 100 will succeed where signal sending will not.

There are many good things to say about HB 100. Rather than merely lauding the legislation, however, we would like to offer several friendly but critical comments.

HB 100 has no clear statement of policy. I-95 does make such policy. It would be helpful, however, to have a clear and concise policy statement to the effect that Montana intends to pursue economic development from within without sacrificing our high quality environment and lifestyle.

HB 100 also does not state explicitly how the money will be channeled to businesses. We have talked about long-term certificates of deposit tied to in-state investments and purchasing mortgages in the secondary market. But the bill only permits "any in-state investment authorized by its rules in addition to those investments authorized" in the list in 17-6-201, MCA. More specificity would certainly be helpful and well within the purvue of this committee.

The preferences expressed in Section 6 of HB 100 are crucial to its effectiveness. The funds available for investment under this legislation are limited. They must be carefully targeted to maximize their effectiveness. During the meetings of the Temporary Committee on Development Finance, several businesspeople expressed the concern that a system of preferences would restrict the program to the point where businesses would not want to participate.

When asked about this argument, Beldon Daniels responded, "That's ridiculous." He pointed out that the most successful programs of this type around the country are very specifically targeted on a wide range of criteria.

Targeting also makes sense in light of the fact that I-95 money is

EXHIBIT F

public money and should be invested in accordance with other state policies. If those obtaining I-95 money exemplify conformance and exceeding those policy goals laid out in Montana law, then the public benefits from the example.

Finally, we would like to offer an amendment to address the one real gap in the development finance proposals to date. That gap is agriculture. We should add a specific preference for those businesses which are engaged in the processing of agricultural products.

DEVELOPMENT CREDIT CORPORATION OF MONTANA

P. O. BOX 916
HELENA, MONTANA 59601

TELEPHONE
442-3850

Testimony in Support of House Bill 100

Mr. Chairman and members of the committee:

My name is Dick Bourke and I am the Vice-President of the Development Credit Corporation of Montana. I was also a member of the Governor's Committee on Development Finance. As you know, this committee assisted in developing this bill, and endorse it.

The Development Credit Corporation is a private, for profit business development corporation chartered under Montana state law. We have an existing capitalization of about $250,000, and are the only organized financial institution in Montana capable of providing risk and equity capital to worthy Montana businesses.

We support the passage of House Bill 100 as a well conceived means to implement the desires of Montana's citizens as expressed in Initiative 95. This bill is the product of much debate and hard work by individuals representing both professional financial disciplines and the general public, and as such should be considered to represent a consensus of these individuals.

However, I do have three minor amendments that I will offer for your consideration. I believe these amendments will make a better bill and allow it to achieve its objectives more efficiently and effectively. As a financial institution which would like to participate in any programs resulting from the passage of HB 100, we are particularly concerned with the workability of the legislation. For this reason, I feel that part of the definition of "clean and healthful" environment, that which refers to being "relatively free" from pollution on page 1, line 22, is ambiguous and could lead to extended debates which may never be resolved. We feel that this part of the definition ought to be struck and that it simply refer to being in compliance with federal and state laws.

We must not lose sight of the fatc that Initiative 95 was principally supported because Montanans wanted economic development and more jobs. In my judgment we must take extra care to draft this legislation so that it is clear and unambiguous, is not considered too restrictive by the

EXHIBIT G

financial community which must implement it, and is focussed directly on stimulating economic development in Montana.

My second proposed amendment concerns part of the preference section, subsection (3) on page 4, lines 5 and 6. I suggest you strike the language beginning"with emphasis on .." This is not because I do not feel these are worthy economic goals, but because the state of Montana already has over half a dozen programs designed to achieve these objectives, all of which committ public resources to encourage the development and comercialization of conservation, alternative energy or renewable resources. We have tax deductions and tax credits to encourage the installation of energy saving devices or alternative energy systems, and property tax exemptions for the latter (Sections 15-32-103, 15-32-109, 15-32-201, 15-6-210.) We have tax credits for utilities and financial institutions to implement low cost loan programs to stimulate energy conservation (Section 15-32-109.) About $1.5 million per year from the coal severance tax revenue is now earmarked for renewable resource and alternative energy development programs, including provisions for either grants or loans for purposes including commercialization (Sections 90-2-107, 90-2-111, 90-4-105.) I feel that these public policy goals are being well served by these existing programs, and that including them in this preference section is unnecessary. Again, this legislation should be as free from restrictions or preferences as possible.

Finally, I have an amendment replacing the word "security" on page 3, line 21, with the word "return". The security may be same for two different investments with substantially different returns. I do not feel that this preference section was intended to provide latitude when different investments had different returns, but only when two or more investments had similar returns. This amendment would, I believe, help clarify this point.

Thank you.

DEVELOPMENT CREDIT CORPORATION OF MONTANA

P. O. BOX 916
HELENA, MONTANA 59601

TELEPHONE
442-3850

Proposed Amendments to HB 100

p.1, lines 22-23

Strike: "that is relatively free from pollution which threatens human health, including as a minimum,"

Insert: "in"

p.3, line 21

Strike: "security"

Insert: "return"

p. 4, lines 5-6

Strike: "with emphasis on conservation, renewable resources, and alternative energy production."

ECONOMIC DEVELOPMENT ASSOCIATION
Post Office Box 1093 • Helena, Montana 59624 • February 3, 1983

STATEMENT IN SUPPORT OF H.B. 100

The vast majority of businesses and industries with which our membership works are small and Montana-owned. Generally they are in start-up or expansion phases, and their owners' personal resources have been strained to the limit to finance their early development. Many are undercapitalized; even more are not able to use available capital resources to their best advantage.

Both start-up and expansion efforts consume large amounts of capital, without producing immediate returns. The first items off the assembly line may come several months after the firm first begins operations. In-between, operating costs must still be covered. This is the area of financing which the owners capital and short-term debt should address. Acquisition of land, plant construction, and equipment purchases should be financed with long-term debt, which can be paid off during the life of those capital assets. Too often, however, the owners' scarce resources must be used to make high down payments on those major assets, leaving little or nothing for operating capital.

Increasingly, long-term, fixed rate financing has become harder to find. Banks and other lenders are properly wary of tying up their resources with too low a return for too long a period in times when interest rates have demonstrated a propensity to rise or fall rapidly and unpredictably. Borrowers, on the other hand, are reluctant to sign up for loans with uncertain debt service requirements. Short term loans with variable interest rates and balloons are even more threatening. The Canadians call them bullet loans. In the East we have heard them referred to as neutron loans -- they go off and kill the borrower but leave the property intact. Certainly there is no advantage to that -- for either the borrower or the lender. We have enough closed plants, empty buildings, and half-vacant industrial parks to commemorate improperly financed businesses -- or businesses that never started at all.

We had hoped that SBA's much-touted 503 program would provide at least a partial solution to our problems in financing bricks and mortar projects, but 503 performance has been disappointing.

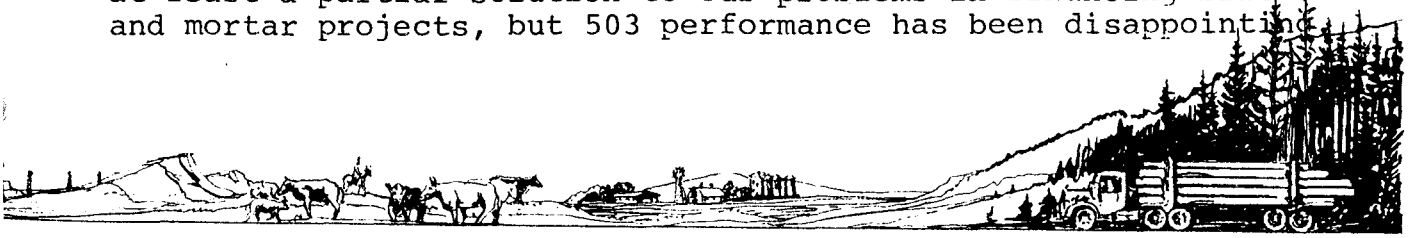

EXHIBIT H

This is not, we hasten to point out, due to any failure on the part of the Montana District Office of SBA, but rather is attributable to the Denver regional office's establishing approval policies which are not compatible with Montana's industrial needs.

There are other circumstances which have made it difficult for otherwise financially-sound small businesses to get needed long-term financing. Industries with facilities on leased ground (such as airport-based industries or recreational businesses operating on federal lands) find it hard to get bank loans for plant construction. Special purpose buildings are also difficult to finance, no matter how viable the company which wishes to build them. Large construction projects, or even the acquisition of substantial amounts of sophisticated equipment, may strain the limits of local financial institutions in less urban areas.

We believe that the passage of H.B. 100 would be a significant step forward in helping sound Montana businesses and industries to develop and expand in the state. For too long we have been operating with too narrow an array of available financing tools. We have looked to our conventional financing institutions to meet all of our financing needs, without giving them the supportive resources that they require. We have made it harder to do business in Montana. We have an opportunity to correct those problems now, and the Montana Economic Development Association urges you to help make that possible through passage of H.B. 100 and some of the other development finance programs which the Administration is presenting for consideration.

PROPOSED AMENDMENT TO HOUSE BILL 100:

Although credit unions are included in the definition of "financial institution" on page 2, line 4 of House Bill 100, they are not included in the actual mechanics of the bill. For example, on page 3, lines 14-18, the bill states that "The Montana in-state investment fund must be invested in the securities authorized as permissible investments under 17-6-211...." Yet credit unions are not included in Section 17-6-211(e), which lists "interest-bearing deposits in banks, building and loan associations, and savings and loan associations located in Montana..." as permissible investments. In addition, the language on page 10, lines 24 and 25, states that "All state funds shall be invested and re-invested in securities enumerated in 17-6-211...." Again, credit unions are not listed in that Section.

PROPOSED AMENDMENT: page 14, line 4--strike "and" before "savings and loan associations"; insert ", and credit unions" following "savings and loan associations."

4 loan associations, ~~and~~ savings and loan associations, and credit unions located

THESE AMENDMENTS ARE PROPOSED BY THE MONTANA CREDIT UNIONS LEAGUE.

Jeffry M. Kirkland
2842 Festival Road
Helena, MT 59601

Representing the Montana Credit Unions League
2-3-83
Support with amendment

EXHIBIT I

TRUZZOLINO FOOD PRODUCTS CO.
104 North Parkmont
Butte, Montana 59701
(406) 494-3132

HEARING ON COAL TAX LOAN FUND

Seven years ago we obtained an SBA loan to build a new factory and enlarge a Business which was started in Montana in 1896. We were limited by the SBA as to how much money we could borrow becaause of the pay back. Therefore we were not able to borrow enough money for operating capital or future expansion.

When the time came when we had to either expand or go out of business, we tried to work with the SBA to obtain more funds and because of high interest notes and our old loan we could not borrow enough money to expand. We then began to work with the Butte Local Development Group to obtain financing. They worked with us in putting together a financial package with the Anaconda Arco Fund. This should be 1/4 of the loan package at 5% interest which was good. Another 1/4 was to oome from SBA 503 program loan and 1/2 was to come from us in the form of a bank loan. The bank loan was 21% and the 503 loan would be 2% under prime and no one knew what that was going to be. It took over 8 months to get the 503 loan because we were one of the 1st companies to try and obtain one.

After going through the two year period, trying to finance our business and maintain control of it, we decided to sell some stock to an investor. We found a large company who wanted to invest in our company, so in order to stay in business and grow we had to sell controlling interest for way under what we thought it was worth.

We wanted to make this brief statement of our problems so you could see the problems even an old established company had in borrowing money. The coal tax loan fund is definitly needed by small Montana businesses to grow and increase the employment and tax base of the Montana economy.

EXHIBIT J

There is one restriction on the loan fund which should be removed, and that is the requirement that a company has to be 51% Montana owned. This paralyzes a company like ours who had to go out of state to obtain capital. The requirement should be that the company be in Montana, paying Montana property and corporate taxes and employing Montana people.

The states attitude is still anti business and with a requirement like this and higher costs of doing business in Montana, a company like ours always faces the posibility of being moved out of state and we don't want to move.

Jack Truzzolino

Jack Truzzolino

Alternative Energy Resources Organization

424 Stapleton Building, Billings, Montana 59101
(406) 259-1958

324 Fuller, Suite C-4, Helena, Mt. 59601
443-7272

TESTIMONY IN SUPPORT OF HB 100

My name is Jim McNairy and I represent the Alternative Energy Resources Organization, or AERO.

AERO generally supports HB 100. We believe that it conforms substantially to Initiative 95 and that it represents a good-faith attempt to legislatively implement the Initiative. However, we would like to offer several comments on the bill.

Our first comment pertains to what has sometimes been called "anti-earmarking." While HB 100 lists specific investment preferences in Section 6, it avoids the issue of whether the Board of Economic Development should be prohibited from investing in certain business activities. The Initiative is very clear in defining the purpose of the Coal Tax Trust Fund as being "to compensate future generations for the loss of a valuable and depletable resource," and "to develop a stable, strong and diversified economy." We strongly believe that neither of these purposes is served by investing in businesses which accelerate the depletion of depletable resources. In sum, we hope the Committee will consider amending the bill so that the Board is discouraged from investing in businesses whose primary activity is the extraction or processing of non-renewable resources.

Our second concern has to do with program fragmentation. Our question is whether there will be sufficient comprehensive planning and coordination which can keep this economic development machinery we are creating on-track. It is very easy to proliferate new programs, especially in an area like economic development, which are not properly coordinated among themselves and may not even be playing off the same game plan. With reference to this particular bill, we wonder if the Board will be operating under, or be guided by, some broader, more comprehensive economic development strategy, possibly involving much more specific targeting of the most beneficial and productive business activities. Or will the Board, 10 or 20 years from now, continue to make investments in accordance with the very generalized guidelines of Section 6?

We would like to draw the Committee's attention to Section 15, which appears at the bottom of page 6 of the bill. Basically, this section requests the Board

EXHIBIT K

to prepare regular reports to the legislature on "potential uses of the coal tax trust fund to develop a stable, strong and diversified Montana economy that meets the needs of present and future Montanans while maintaining and improving a clean and healthful environment." This is the type of thinking and analysis which we believe desperately needs to be done. At this point, I don't think we know what businesses will most efficiently meet this charge. But this analysis needs to be done in concert with other economic development programs and feed into a constantly evolving overall development strategy. The lines of coordination and the responsibilities for long-term planning need to be more explicit.

Our final concern is the area of citizen involvement. I think there has been fairly strong concensus so far that there needs to be citizen involvement in state economic development programs. We find the direct citizen participation opportunities in this bill to be very limited. The Board is appointed by the Governor with no real controls to require diverse citizen representation. The oversight committee consists solely of legislators. We believe that in making their decisions the Board should receive guidance and input from the many political and economic constituencies which make up this state.

Along these same lines, we would especially like to stress the importance of local citizen input. One of the themes which came out of this Committee's first hearing on Jan. 22 was that state economic development actually takes place at the local level. The benefits of development are primarily felt locally, the impacts are felt locally, and, in very profound ways, the type of development which takes place shapes the qualities of the community. Consequently, we feel it's very important that local voices be heard. We realize that the infrastructure and mechanisms for soliciting and processing citizen input on such matters are not now in place. One such vehicle which could be used in the future is the Community Development Corporation; local development entities whose Boards are genuinely representative of the communities they serve. Although this comment may not be germane to this particular bill, we raise it to encourage the Committee to consider it at an appropriate time.

Thank you.

T E S T I M O N Y B Y

ERLE C. GROSS, PRESIDENT
MONTANA BANKERS ASSOCIATION

AND

PRESIDENT, LITTLE HORN STATE BANK
HARDIN, MONTANA

ON

HOUSE BILL 100

BEFORE THE

HOUSE SELECT COMMITTEE ON ECONOMIC DEVELOPMENT

FEBRUARY 3, 1983

EXHIBIT L

Bankers are vitally interested in economic growth for Montana. They want development of natural resources, human resources, and financial resources for the sustained maximum benefit of the state and its citizens.

The 165 member banks of the Montana Bankers Association commend Governor Ted Schwinden and his administration for many of the positive steps in the "Build Montana" program. Many of our association members contributed time, effort, and dollars in the development of the program. However, the MBA has serious difficulty with House Bill 100 and a number of other bills introduced in the House and Senate designed to use state funds and specifically coal tax trust funds for social programs, which are mis-named as economic development programs.

The Montana Bankers Association believes that our state constitution clearly mandates the State Investment Board function under the prudent-man rule to generate the largest number of dollars in as safe a manner as possible for the taxpayers of the state. The Constitutional Convention delegates repeatedly emphasized safety and soundness as their primary concern in establishing the Unified Investment policy. HB 100 is a departure from this policy.

You, ladies and gentlemen, as elected and responsible delegates to the 48th Montana Legislature, are faced with serious financial problems. Your deliberations and conclusions will have a lasting impact on our state and its future. Times of tight budget, no-nonsense fiscal policies, are not times to experiment with untried social programs mis-named as economic development stimulants.

The Montana Bankers Association members have stressed constitutional issues in the debate on whether or not the state should become further involved in credit and loan programs. We have asked

the courts, in their wisdom, to decide that issue and at this time appeal to your good judgement and common sense. Years of experience have taught surviving bankers a few clear and undisputed lessons. These are:

1. Subsidized interest or low quality standards for loans do not make a business successful. Credit in any form is not a substitute for profit.
2. Government loan programs cause irrational behavior on the part of the citizenry. To secure part of the money, the "good deal" becomes a greater factor than hard-core business decisions.
3. One business has an economic advantage over another with HB 100 and other loan authorities. Any existing or new business not qualifying for the favored state treatment operates at a disadvantage.

At this early point in the 48th Session, five bills have already been introduced that attempt to use taxpayer dollars for social reforms by making loans in the name of economic development. With all the demands on the State Treasury, how can you, ladies and gentleman, advocate a further deterioration of those earning investments?

Thank you for giving our concerns your consideration. Our sincere best wishes in your deliberations.

FOR ALL MEMBERS
BIDDERS

MONTANA CHAMBER OF COMMERCE

P. O. BOX 1730 • HELENA, MONTANA 59624 • PHONE 442-2405

Testimony
to the
House Select Committee on Economic Development
John Vincent, Chairman
in opposition to
HB 100
by
Forrest H. Boles
President
Montana Chamber of Commerce
February 3, 1983

The Montana Chamber of Commerce has a distinguished record in the advocacy of economic development in Montana. Many legislators still serve who can remember when the Chamber's pleas for economic development were being drowned by the trumpet call of preservationists.

On this very date, the Montana Chamber of Commerce and individual members of the Chamber have worked diligently to help construct the economic development plans for the future.

The Montana Chamber of Commerce could never be characterized as opposing economic development in Montana.

If Initiative 95 meant, by its electoral victory, that economic development was assured, the Montana Chamber of Commerce would have fought to lead the parade of its support. However, the wording of the initiative had within itself the potential of self-destruction and Constitutional conflict. For these reasons, we and others, opposed the initiative and have been instrumental

(more)

in bringing action to have the courts review its provisions. That court hearing was held this afternoon in Helena.

Two serious flaws can be interpreted in the initiative's wording. (1) It could contradict the "prudent man" investment directive in our present Constitution; and (2) the intent of the initiative, in part, requires a Constitutional amendment rather than an initiative. Specifically, the coal tax trust fund is allocated constitutionally to Montana. The wording of the initiative, however, appears to make this allocation a legislative change, not constitutional. It opens the door to future legislative changes in the utilization of those funds which may well go beyond the author's intention.

A very real concern expressed by the Montana Chamber during the public debate of I-95 was that preferential treatment would be given to certain types of businesses seeking financial assistance judged not by their economic viability but by their willingness to adjust to the social engineering requirements now contained in HB-100.

For these reasons the Montana Chamber of Commerce is opposed to passage of HB 100.

/ssg

SELECT COMMITTEE ON ECONOMIC DEVELOPMENT

HOUSE OF REPRESENTATIVES

48TH LEGISLATURE

ATTENDANCE

DATE: Feb. 3, 1983

ROOM: Old Supreme Crt Chambers

	PRESENT	ABSENT	OTHER
VINCENT, John - Chairman	X		
SCHYE, Ted - Vice-Chairman	X		
ASAY, Tom	X		
DARKO, Paula	X		
FABREGA, Jay	X		
FAGG, Harrison	X		
HANSEN, Stella Jean	X		
HARPER, Hal	X		
HARRINGTON, Dan	X		
METCALF, Jerry	X		
NEUMAN, Ted	X		
RAMIREZ, Jack	X		
VINGER, Orren	X		

VISITOR'S REGISTER

HOUSE ~~SELECT~~ ECONOMIC DEVELOPMENT COMMITTEE

BILL H.B. 100 HB 100 DATE 2-3-83

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
ED JASMIN	626 MONROE HELENA, MONT	NORTHWESTERN BANK	✓	
Jerry R Sullivan	521 Tamarack Helena Mt	First Security Bank	✓	
Bob Young	Helena	Board of Investments		
Sheed Corpron	Helena	S.D. 33	✓	
Don Judge	Helena	MT STATE AFL-CIO	✓ amend	
~~Howard Toole~~	~~Helena~~	~~Montana Bankers~~		
BILL BEAMAN	940 STUART HELENA MT 59601	D.A. DAVIDSON & CO	✓	
JACK TROZZOLINO	50 Apple Orchard Rd Butte MT	Trozzolino Food Bar	✓	
Terry Murphy	Dt. Falls	MT. Farmers Union	✓	
Carol Daly	2007 GOLD RUSH HELENA	Mt. Economic Development Association	✓	
Finn Wolstad	Great Falls	Nordak	✓	
JOHN BALFANZ	Denver Co	NORDAK	✓	
Pat Roundee	Helena	Self Interest		
Nancy Keenan	Helena	Mt. Democratic Party	✓	
Buster Scheiber	Whitefish	temporary Committee for Development Finance	✓	
~~Dan Kemmis~~	~~Helena~~	~~Governor~~		
~~Howard Hollenbaugh~~	~~Helena~~	~~Northern Bank~~		
Carol Schmidt	Helena	Dept. of Commerce		
Ed Argenbright	Helena	Mt Trade Corp.	✓	
Dick Boyle	Helena	DCCM	✓ AMEND	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33
1-83

VISITOR'S REGISTER

HOUSE SELECT ECONOMIC DEVELOPMENT COMMITTEE

BILL H.B. 100 HB 100 DATE 2-3-83

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Tom Stephens	Helena	MT Trade Comm	✓	
Greg Jamison	Bozeman	King Coal Sales	✓	
STEVE BROWN	Helena	Mont. Indep. Bankers	✓	
Pat Wilson	Billings	MSTCO	✓	
JEFF Kirkland	Helena	Mont. Credit Unions League	✓	
Jim McNary	Helena	AERO	✓	
Don Reed	Helena	MFIC	✓	
Ron Stephens	Helena	Mont. C of C		✓
JOHN CARBY	"	MT BANKERS ASSN		✓
David Freiberg	Helena	Self	✓	
J.H. Martinez	Helena	Superior Fire Apps.	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33
1-83

~~List for Select Committee on Economic Development to be notified for future meetings.~~ 2/04/83 meeting

Name	Address	Phone
Lynette Nickel	Rt 3, Box 1259 Libby	293-9838
Don Judge	P.O. Box 1176, Helena	442-1708
Terry Murphy	Rm 112 Colonial Inn, Helena	443-2100 ex. 112
Ken Mackley	Box 1341 Billings mt 59103	248-1720
[illegible]	[illegible]	443-7912
Bill Beaman	940 Stuart Helena MT	442-9600
Jess Kirkland	Montana Credit Unions League 1232b Helena Avenue Helena	442-9081
Jack Truzzolillo	50 Apple Orchard Rd Bozeman	494-3137
Jean Anderson	3220 County Club Circle, Billings 59102	252-5706
Gary Common	Bozeman	587-0403
Buster Schreiber	Box 1174 Whitefish, Mt.	862-2551
Finn Walstad	Box 2023 Great Falls	727 7800
Steve Brown	1313 11th Ave., Helena	442-8711
Tom Staples	Mt. Int'l Trade Commission Suite 612 Power Block; Helena	443-7910
Carol Daly	P.O. Box 1093 Helena, Mt. 59624	443-3038
Irene Marnette	P.O. Box 758 Polson	883-4402
PAT RAUNDAL	509 Raymond Helena	442-4442
NANCY J. HARTE	Box 802, Helena	442-9520
Dennis L. Veleber	Capitol Station Helena	449-4000
DICK BOURKE	Box 916, DGN. CREDIT CORP. OF MT	442-3850
Tom Towe	2525 6th Ave. N., Billings MT.	248-7337
FRANK W. SMITH	825 MOT SIFF RD. HELENA	442-6334
ED JASMIN	NORTHWESTERN BANK - HELENA	442-5050
Grace M. Edwards	140 S. Crestwood Dr. Blgs, 59102	656-4102

STANDING COMMITTEE REPORT

February 4 19 83

MR. Speaker

We, your committee on Select Economic Development

having had under consideration House Joint Resolution Bill No. 11

first reading copy (white color)

"A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REAFFIRMING THE STATE'S COMMITMENT TO ECONOMIC DEVELOPMENT CONSISTENT WITH RESPONSIBLE STEWARDSHIP AND ACKNOWLEDGING THE RESPONSIBILITY OF CORPORATIONS AND INDIVIDUALS TO REDUCE THE IMPACT OF CESSATION OR SUSPENSION OF INDUSTRIAL ACTIVITY."

Respectfully report as follows: That House Joint Resolution Bill No. 11

be amended as follows:

1. Page 1, line 11
Following: line 10
Insert: "WHEREAS, in Montana's past there was a failure to address the long term ramifications of natural resource extractive and processing industries in a manner which would have protected future generations from the adverse effects of "boom and bust" economic cycles; and"

2. Page 1, line 11.
Following: "is"
Insert: "now"

3. Page 2, line 24.
Following: "history"
Strike: "cannot"
Insert: "should not"

AMENDED

Chairman.

STATE PUB. CO.
Helena, Mont.

CHIEF CLERK

February 4 19 83

4. Page 2, line 25.
Following: "treatment"
Strike: remainder of line 25 through "life" on line 1 of page 3
Insert: "of workers who have committed their lives"

5. Page 3, line 11.
Following: line 10
Insert: "BE IT FURTHER RESOLVED, that a copy of this resolution be sent to the governor of the State of Montana, the president of the Atlantic Richfield company, the president of the Anaconda company, the board of directors of the Atlantic Richfield company, and all others whom it may concern."

AND AS AMENDED

DO PASS

Chairman.

STATE PUB. CO.
Helena, Mont.

EXECUTIVE SESSION OF SELECT COMMITTEE ON

ECONOMIC DEVELOPMENT - FEBRUARY 20, 1983

CHAIRMAN VINCENT called the meeting to order at 9:10 a.m. on Sunday, February 20th, in Room 325, the former Supreme Court chambers. All members were present.

DISPOSITION OF HOUSE BILL 371

HARPER moved the following amendment proposed by the Credit Union Association:

(1) Page 2, line 23
Following: "associations,"
Strike: "and"
Insert: ", credit unions"

Motion carried unanimously.

FABREGA moved proposed amendment by Representative Nordtvedt:

(1) Page 4, line 7
Following: "that"
Insert: "this subsection does not include the investment of pension funds and"

Motion failed.

HARPER suggested striking prudent man language and replace with "benefit the long-term of economy of Montana" with regard to types of investments allowed. FABREGA agreed with deleting board's authority relative to prudent investments, but not with proposed additional language.

FABREGA moved to amend relative section of bill pertaining to prudent investments as follows:

(1) Page 4, line 7
Following: "that"
Strike: remainder of line 7 through "(ii)" on line 10

Motion carried. Vinger, Harper and Ramirez voted against.

FABREGA moved House Bill 371 AS AMENDED, DO PASS.

Motion carried unanimously.

DISPOSITION OF HOUSE BILL 721

RAMIREZ expressed concern that they should set some standards for hospital authority and that a statement of intent was needed since rule-making authority is granted.

FAGG moved his proposed amendment defining eligible health facilities (see attached).

Motion carried. HARPER voted against.

DISPOSITION OF HOUSE BILL 100

HARPER moved the proposed amendment by the Development Credit Corporation of Montana, to better reflect investment preferences:

(1) Page 3, line 21
Strike: "security"
Insert: "return"

Motion carried unanimously.

RAMIREZ moved the proposed amendments by Speaker Daniel Kemmis:

(1) Page 3, line 6
Following: "principal"
Strike: "and interest"

(2) Page 9, line 19
Following: "which"
Strike: "may"
Insert: "shall"

(3) Page 10, line 15
Following: "which"
Strike: "men"
Insert: "people"

Motion carried unanimously.

HARPER moved a proposed amendment by AFL-CIO:

(1) Page 4, following line 8, add:
"(6) pay the prevailing wage for that occupation, or utilize contractors who pay the prevailing wage, for any construction made possible by state investment;

Motion carried. VINGER and RAMIREZ voted against.

HARPER suggested changing proposed amendment by AFL-CIO pertaining to affirmative action in hiring and moved the following amendment:

(1) Page 4, following line 8, add:

"(6) have demonstrable affirmative action plans for employing veterans, women, minorities and the handicapped; or"

Motion carried unanimously.

ASAY moved the proposed amendment by the Environmental Information Center:

(1) Page 4, following line 8, add following subsection

"(4) encourage or benefit the processing, refining, marketing, and innovative use and promotion of Montana's agricultural products;"

Motion carried unanimously.

Amendments proposed by Steve Brown, attorney, were discussed and it was decided not to add language relative to environment as it was consensus of members that such is provided for in other statutes.

FAGG moved House Bill 100 AS AMENDED, DO PASS.

Motion carried unanimously.

HARPER moved the Statement of Intent to House Bill 100.

Motion carried unanimously.

DISPOSITION OF HOUSE BILL 700

HARPER discussed proposed amendment by Mae Nan Ellingson, Missoula Deputy City Attorney. If local governments think it is necessary to hold a public hearing for the sake of public interest, they can do so without specifying in this bill. This is covered in rule-making authority. This amendment would ensure local governments are notified when applications for bonds are made.

(1) Page 25, line 1
Following: "applications"
Insert: "and for notifying the local governments of the application for purposes of complying with (section 26)"

Motion carried unanimously.

RAMIREZ suggested drafting language to set forth procedure for counties to notify public and, with committee's approval, allow Greg Petesch to write & include the following: to set procedure for notifying county and then give local government 14 days to decide if they want to hold hearing or if they want board to hold hearing. HARPER commented that the purpose of the hearing is to make findings pursuant to subsection (1). He thinks rules should be adopted to do this.

ELLISON moved the amendment, as Petesch drafted it.

STANDING COMMITTEE REPORT

February 21 19 83

MR. Speaker

We, your committee on Select Economic Development

having had under consideration House Bill No. 100

first reading copy (white color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT SECTION 3 OF INITIATIVE 95; CREATING AN INSTATE INVESTMENT FUND TO BE ADMINISTERED BY THE MONTANA ECONOMIC DEVELOPMENT BOARD; PROVIDING FOR TYPES OF INVESTMENTS TO BE MADE; AMENDING SECTIONS 17-6-201 AND 17-6-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That House Bill No. 100

BE AMENDED AS FOLLOWS:

(1) Page 2, line ~~22~~ 13
Following: "that"
Strike: "diversifies and stabilizes"
Insert: "strengthens"

(2) Page 3, line 6
Following: "principal"
Strike: "and interest"

(3) Page 3, line 21
Following: "security"
Insert: "and return"

(4) Page 4, line 6
Following: "production;"
Strike: "and"

~~DO PASS~~

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

(5) Page 4, line 7
Following: line 6
Insert: "(4) encourage or benefit the processing, refining, marketing, and innovative use and promotion of Montana's agricultural products;
(5) pay the prevailing wage for that occupation, or utilize contractors who pay the prevailing wage, for any construction made possible by state investment;
(6) have demonstrable affirmative action plans for employing veterans, women, minorities and the handicapped; or"
Renumber: subsequent subsection

(6) Page 9, line 16
Following: line 15
Insert: "interest and"

(7) Page 9, line 19
Following: "board"
Strike: "may"
Insert: "shall"

(8) Page 10, line 15
Following: "which"
Strike: "men"
Insert: "people"

AND AS AMENDED

DO PASS

STATEMENT OF INTENT ATTACHED

John Vincent
Chairman.

STATE PUB. CO.
Helena, Mont.

WE, YOUR SELECT COMMITTEE ON ECONOMIC DEVELOPMENT, ATTACH TO HOUSE BILL NO. 100, THE FOLLOWING:

STATEMENT OF INTENT

HOUSE BILL NO. 100

(1) A statement of intent is required for this bill because it grants rulemaking authority to the Montana economic development board in section 16. These rules will include definitions of small and medium-sized businesses, a method of commitment of funds to financial institutions, setting service fees for loans, defining types of permissible investments, and procedural rules to govern the board's proceedings.

(2) It is the intent of the legislature that:

a) the definitions of small and medium-sized business be based on either the number of employees of the business, the level of capitalization of the business, or a combination of these factors;

b) the method of committing funds to financial institutions be similar to the method utilized by the board of housing for committing funds for housing developments to financial institutions;

c) the level of service fees be set to cover the costs associated with processing the investment and be similar to those charged by financial institutions;

d) the permissible investments adopted by rules be based on the long-term benefit to the Montana economy and adhere to the prudent-man rule. The investments should be aimed at diversifying, strengthening, and stabilizing the Montana economy and increasing employment opportunities while maintaining and improving a clean and healthful environment; and

e) the procedural rules be based on the Attorney General's model rules.

2/21/83

48th LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
HB 18	1-26-83	3-2-83	3-2-83					3-2-83	
HB 20	1-14-83	1-17-83	1-17-83				1-17-83		
HB 63	1-18-83	1-24-83 1-28-83	1-28-83				1-28-83		
HB 64	1-18-83	1-24-83	1-24-83				1-24-83		
HB 100	3-1-83	3-22-83	3-22-83					3-22-83	
HB 106	1-26-83	2-7-83	2-7-83				2-7-83		
HB 132	1-28-83	2-2-83	2-2-83				2-2-83		
HB 134	1-28-83	2-2-83	2-2-83						2-2-83
HB 158	1-27-83	3-7-83	3-7-83					3-7-83	
RETURNED HB 158	3-7-83	3-8-83	3-8-83						3-8-83
HB 190	1-25-83	2-4-83 2-11-83	2-11-83				2-11-83		
HB 193	3-25-83	3-25-83	3-25-83				3-25-83		
HB 213	2-8-83	3-23-83 3-25-83	3-25-83				3-25-83		
HB 218	1-31-83	3-9-83	3-9-83				3-9-83		
HB 219	1-28-83	3-9-83	3-9-83					3-9-83	
HB 229	1-29-83	3-7-83	3-7-83				3-7-83		

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 22, 1983

The Business and Industry Committee met in Executive Session on March 22, 1983, at 6:05 p.m. The meeting was called to order by Chairman Allen Kolstad in Room 405, State Capitol.

ROLL CALL: All members of the Committee were present.

ACTION ON HOUSE BILL 100: Senator Dover made the motion that on page 4, line 24 through line 1 on page 5, strike subsection 5 in its entirety. Senator Lee seconded the motion.

The Committee voted 7-3 with Senators Regan, Christiaens and Fuller voting no, that the proposed amendment to HOUSE BILL 100 BE ADOPTED.

Senator Dover made the motion that on page 4, line 19, following "environment" strike remainder of line 19 through "production" on line 20. Senator Lee seconded the motion.

The Committee voted 7-3 with Senators Regan, Christiaens and Fuller voting no, that the proposed amendment to HOUSE BILL 100 BE ADOPTED.

Senator Dover made the motion that on page 2, line 11, following "is" strike remainder of line 11 through "as" on line 12 and insert "at" and on page 2, line 12, following "minimum" insert "in". Senator Lee seconded the motion.

The Committee voted 7-3 with Senator Regan, Christiaens and Fuller voting no, that the proposed amendments to HOUSE BILL 100 BE ADOPTED.

Senator Dover made the motion that on page 2, line 18, following "union" strike remainder of line 18 in its entirety and insert "or" and on page 2, line 19, following "development" strike remainder of line 19 through "banking company" and insert "corporation created pursuant to Title 32, Chapter 4". Senator Lee seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amendments to HOUSE BILL 100 BE ADOPTED.

Senator Dover made the motion that on page 10, line 14, following "accountability" strike remainder of line 14 through "PUBLIC" on line 16 and insert the previous language. Senator Lee seconded the motion.

The Committee voted 8-2 with Senators Fuller and Christiaens voting no that the proposed amendments to HOUSE BILL 100 BE ADOPTED.

Senator Dover made the motion that on page 4, line 10, following "made" insert "when sufficient funds are not available to fund all possible investments", strike "shall" and insert "may". Senator Lee seconded the motion.

The Committee voted 9-1 with Senator Regan voting no that the proposed amendments to HOUSE BILL 100 BE ADOPTED.

Senator Lee made the motion that House Bill 100 As Amended Be Concurred In. Senator Goodover seconded the motion.

The Committee voted 9-1 with Senator Boylan voting no that HOUSE BILL 100 AS AMENDED BE CONCURRED IN.

Senator Towe will carry this bill on the floor.

ACTION ON HOUSE BILL 358: Senator Regan made the motion that House Bill 358 Be Concurred In. Senator Fuller seconded the motion.

The Committee voted, by Roll Call Vote, 8-2 with Senators Goodover and Severson voting no that HOUSE BILL 358 BE CONCURRED IN.

Senator Van Valkenburg will carry this bill on the floor.

ACTION ON HOUSE BILL 371: Senator Lee made the motion that House Bill 371 Be Concurred In. Senator Severson seconded the motion.

The Committee voted unanimously, by voice vote, that HOUSE BILL 371 BE CONCURRED IN.

Senator Towe will carry this bill on the floor.

ACTION ON HOUSE BILL 464: Senator Dover made the motion that House Bill 464 Be Concurred In. Senator Lee seconded the motion.

Senator Goodover made a substitute motion that House Bill 464 Be Not Concurred In. Senator Regan seconded the motion.

The Committee voted, by Roll Call Vote, 6-4, with Senators Dover, Fuller, Gage and Kolstad voting no that HOUSE BILL 464 BE NOT CONCURRED IN.

Senator Regan will carry this bill on the floor.

ACTION ON HOUSE BILL 685: Senator Fuller made the motion that on page 6, line 14, strike "March" and insert "January". Senator Lee seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amendment to HOUSE BILL 685 BE ADOPTED.

Senator Goodover made the motion that on page 4, line 2, following "businesses" strike remainder of line 2 through "are" on line 3 and on page 4, line 3, following "Montana" strike remainder of line 3 through "Montana" on line 4. Senator Lee seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amendments to HOUSE BILL 685 BE ADOPTED.

Senator Dover made the motion that on page 16, line 12, following "11" insert "and 16 and 17". Senator Fuller seconded the motion.

The Committee voted unanimously, by voice vote, that the proposed amend-

STANDING COMMITTEE REPORT

March 22, 19 83

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 100

KEMMIS (TOWE)

Respectfully report as follows: That HOUSE Bill No. 100 be amended as follows:

1. Page 2, line 11.
Following: "is"
Strike: remainder of line 11 through "as" on line 12.
Insert: "at"

2. Page 2, line 12.
Following: "minimum,"
Insert: "in"

3. Page 2, line 18.
Following: "union,"
Strike: remainder of line 18 in its entirety.
Insert: "or"

4. Page 2, line 19.
Following: "development"
Strike: remainder of line 19 through "banking company"
Insert: "corporation created pursuant to Title 32, Chapter 4"
XXXXSSX

. . . CONTINUED . . .

Chairman.

STATE PUB. CO.
Helena, Mont.

1C.

5. Page 4, line 10.
Following: "made"
Insert: "when sufficient funds are not available to fund all possible investments"
Strike: "shall"
Insert: "may"

6. Page 4, line 19.
Following: "environment"
Strike: remainder of line 19 through "production" on line 20.

7. Page 4, line 24, through line 1 on page 5.
Strike: subsection (5) in its entirety.
Renumber: subsequent sections

8. Page 10, line 14.
Following: "~~accountability~~"
Strike: remainder of line 14 through "PUBLIC" on line 16.
Insert: "be broadly representative of the state, seeking to balance professional expertise and public interest and accountability"

AND, AS SO AMENDED,

BE CONCURRED IN

ALLEN C. KOLSTAD, Chairman.

STATE PUB. CO.
Helena, Mont.

yc

March 23, 1983

SENATE STANDING COMMITTEE REPORT
(Business and Industry)

That House Bill 100 be amended as follows:

1. Page 2, line 11.
Following: "is"
Strike: remainder of line 11 through "as" on line 12.
Insert: "at"

2. Page 2, line 12.
Following: "minimum,"
Insert: "in"

3. Page 2, line 18.
Following: "union,"
Strike: remainder of line 18 in its entirety.
Insert: "or"

4. Page 2, line 19.
Following: "development"
Strike: remainder of line 19 through "banking company"
Insert: "corporation created pursuant to Title 32, Chapter 4"

5. Page 4, line 10.
Following: "made"
Insert: "when sufficient funds are not available to fund all possible investments"
Strike: "shall"
Insert: "may"

6. Page 4, line 19.
Following: "environment"
Strike: remainder of line 19 through "production" on line 20.

7. Page 4, line 24, through line 1 on page 5.
Strike: subsection (5) in its entirety.
Renumber: subsequent sections

8. Page 10, line 14.
Following: "~~accountability~~"
Strike: remainder of line 14 through "PUBLIC" on line 16.
Insert: "be broadly representative of the state, seeking to balance professional expertise and public interest and accountability"

March 26, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 100, Elliott Committee of the Whole Amendment subsection (2) be amended as follows:

1. Following: "2."
Insert: "In deciding which of several investments of equal or comparable security and return are to be made"
Strike: "The"
Insert: "the"

March 26, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 100, Committee of the Whole Amendment of Senator Elliott, be amended as follows:

1. Following: subsection 3.
Insert: "4. The board shall give preference to the business investments that maintain and improve a clean and healthful environment."

March 26, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 100, Standing Committee Report, Business & Industry, be amended as follows:

1. Strike: Amendments 1 and 2

March 26, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 100 be amended as follows:

1. Page 8, line 15.
Strike: Sections 17 and 18 in their entirety
Renumber: subsequent sections

March 26, 1983

SENATE COMMITTEE OF THE WHOLE AMENDMENT

That House Bill No. 100 be amended as follows:

1. Page 4, line 8.
Strike: Section 6 in its entirety
Insert: ""New Section. Section 6. Investment Preferences.
1. The provisions of Article II, Section 4 of the Montana Constitution prohibiting discrimination shall be strictly applied with relation to any investment made under this act.

2. The board shall give preference to the business investments that:
(a) are for locally owned enterprises that are either expanding existing operations or establishing new operations; and
(b) provide jobs that will be substantially filled by current Montana residents.

3. Preference shall be given to small and medium-sized businesses are defined in rules adopted by the board."

HB 100

STATEMENT OF INTENT

HOUSE BILL 100

House Economic Development Committee

(1) A statement of intent is required for this bill because it grants rulemaking authority to the Montana economic development board in section 16. These rules will include definitions of small- and medium-sized businesses, a method of commitment of funds to financial institutions, setting service fees for loans, defining types of permissible investments, and procedural rules to govern the board's proceedings.

(2) It is the intent of the legislature that:

(a) the definitions of small- and medium-sized business be based on either the number of employees of the business, the level of capitalization of the business, or a combination of these factors;

(b) the method of committing funds to financial institutions be similar to the method utilized by the board of housing for committing funds for housing developments to financial institutions;

(c) the level of service fees be set to cover the costs associated with processing the investment and be similar to those charged by financial institutions;

(d) the permissible investments adopted by rules be based on the long-term benefit to the Montana economy and adhere to the prudent-man rule. The investments should be aimed at diversifying, strengthening, and stabilizing the Montana economy and increasing employment opportunities while maintaining and improving a clean and healthful environment; and

(e) the procedural rules be based on the Attorney General's model rules.

 REFERENCE BILL HB-100

HOUSE BILL NO. 100

INTRODUCED BY KEMMIS, TOWE, VINCENT, HARRINGTON, METCALF, HARPER, SCHYE, DARKO, HANSEN, J. HAMMOND, KADAS, VELEBER, WALDRON, MENAHAN, J. JENSEN, SAUNDERS, MCBRIDE, NISBET, D. BROWN, SCHULTZ, REAM, BACHINI, PECK, FARRIS, O'CONNELL, NILSON, J. BROWN, CONNELLY, LYBECK, KEENAN, ZABROCKI, MCCORMICK, HOWE, DRISCOLL, DAILY, PAVLOVICH, HOLLIDAY, BENGTSON, KENNERLY, SHONTZ, YARDLEY, SPAETH, WILLIAMS, ADDY, NEUMAN, BARDANOUVE, POUSH, KOEHNKE, FABREGA, BERTELSEN, FAGG, BERGENE, MILLER, HEMSTAD, STIMATZ, HARP, HALLIGAN, ERNST, CRIPPEN, VAN VALKENBURG, ECK, JACOBSON, CONOVER, BERG, MOHAR, MAZUREK, HAFFEY, CHRISTIAENS, LANE, DANIELS, THOMAS, R. MANNING, HAGER

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT SECTION 3 OF INITIATIVE 95; CREATING AN IN-STATE INVESTMENT FUND TO BE ADMINISTERED BY THE MONTANA ECONOMIC DEVELOPMENT BOARD; PROVIDING FOR TYPES OF INVESTMENTS TO BE MADE; AMENDING SECTIONS 17-6-201 AND 17-6-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. This act may be cited as the "Montana In-State Investment Act of 1983".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 16 and Initiative 95 approved by the people at the election on November 2, 1982], unless the context requires otherwise, the following definitions apply:

(1) "Board" means the Montana economic development board established in [section 19].

(2) "Clean and healthful environment" means an environment that is ~~relatively free from pollution which threatens human health, including as~~ AT RELATIVELY FREE FROM POLLUTION WHICH THREATENS HUMAN HEALTH, INCLUDING AS a minimum, IN compliance with federal and state environmental and health standards.

(3) "Committee" means the economic development oversight committee created by [section 17].

(4) "Financial institution" includes but is not limited to a state- or federally chartered bank or a savings and loan association, credit union, ~~insurance company,~~ OR development ~~company, or investment banking company~~ CORPORATION CREATED PURSUANT TO TITLE 32, CHAPTER 4.

(5) "Loan participation" means loans or portions thereof bought from a financial institution.

(6) "Locally owned enterprise" means any enterprise

REFERENCE BILL

51% of whose stock, partnership interests, or other ownership interests are owned and controlled by residents of Montana.

(7) "Long-term benefit to the Montana economy" means an activity that ~~diversifies and stabilizes~~ STRENGTHENS the Montana economy and that has the potential to maintain and create jobs, increase per capita income, or increase Montana tax revenues in the future to the people of Montana, either directly or indirectly.

(8) "Montana economy" means any business activity in the state of Montana, including those which continue existing jobs or create new jobs in Montana.

(9) "Montana in-state investment fund" means the fund established by [section 3 of Initiative 95].

(10) "Service fees" means the fees normally charged by a financial institution for servicing a loan, including amounts charged for collecting payments and remitting amounts to the fund.

NEW SECTION. Section 3. Montana in-state investment fund. The Montana in-state investment fund consists of 25% of the revenue deposited after June 30, 1983, into the permanent coal tax trust fund established in 17-6-203(5) and the principal ~~and interest~~ payments on all investments made from the Montana in-state investment fund.

NEW SECTION. Section 4. Unified investment program.

The Montana economic development board and the board of investments shall hold joint meetings at least twice a year as a unified investment board for purposes of coordinating investment strategies, policies, and programs as required by Article VIII, section 13, of the Montana constitution.

NEW SECTION. Section 5. Authorized investments. The Montana in-state investment fund must be invested in the securities authorized as permissible investments under 17-6-211 and in any other type of in-state investment authorized by rules adopted by the board.

~~NEW SECTION. Section 6. Investment preferences. In deciding which of several investments of equal or comparable security AND RETURN are to be made WHEN SUFFICIENT FUNDS ARE NOT AVAILABLE TO FUND ALL POSSIBLE INVESTMENTS, the board shall may give preference to the business investments that:~~

~~(1) are for locally owned enterprises that are either expanding or establishing new operations;~~

~~(2) provide jobs that will be substantially filled by current Montana residents as opposed to providing jobs that will be filled by nonresidents coming into the state to fill such jobs;~~

~~(3) maintain and improve a clean and healthful environment with emphasis on conservation, renewable resources, and alternative energy production; and~~

~~(4) ENCOURAGE OR BENEFIT THE PROCESSING, REFINING,~~

~~MARKETING, AND INNOVATIVE USE AND PROMOTION OF MONTANA'S AGRICULTURAL PRODUCTS~~

~~(5) PAY THE PREVAILING WAGE FOR THAT OCCUPATION, OR UTILIZE CONTRACTORS WHO PAY THE PREVAILING WAGE FOR ANY CONSTRUCTION MADE POSSIBLE BY STATE INVESTMENT~~

~~(6)(5) HAVE DEMONSTRABLE AFFIRMATIVE ACTION PLANS FOR EMPLOYING VETERANS, WOMEN, MINORITIES, AND THE HANDICAPPED OR~~

~~(7)(6) benefit small and medium-sized businesses as defined in rules adopted by the board.~~

THERE IS A NEW MCA SECTION THAT READS:

Section 6. Investment preferences. (1) The provisions of Article II, section 4, of the Montana constitution prohibiting discrimination shall be strictly applied with relation to any investment made under [this act].

(2) ~~The~~ IN DECIDING WHICH OF SEVERAL INVESTMENTS OF EQUAL OR COMPARABLE SECURITY AND RETURN ARE TO BE MADE, THE board shall give preference to the business investments that:

(a) are for locally owned enterprises that are either expanding existing operations or establishing new operations; and

(b) provide jobs that will be substantially filled by current Montana residents.

(3) Preference shall be given to small and

medium-sized businesses as defined in rules adopted by the board.

(4) THE BOARD SHALL GIVE PREFERENCE TO THE BUSINESS INVESTMENTS THAT MAINTAIN AND IMPROVE A CLEAN AND HEALTHFUL ENVIRONMENT.

NEW SECTION. Section 7. No direct loans. No money from the Montana in-state investment fund may be used to make direct loans to individual borrowers. Loans or portions thereof originated by a financial institution that are sold to the trust are not direct loans.

NEW SECTION. Section 8. Limitation on size of investments. No investment may be made that will result in any one business enterprise or person receiving a benefit from or incurring a debt to the Montana in-state investment fund the total current accumulated amount of which exceeds 10% of the prior fiscal year's coal severance tax revenue deposited in the Montana in-state investment fund.

NEW SECTION. Section 9. State participation in loans. State participation in any loan to a business enterprise, except for a loan guaranteed by a federal agency, must be limited to 80% of the outstanding loan. The state shall participate in the security for a loan in the same proportion as the loan participation amount.

NEW SECTION. Section 10. Prior commitment of funds. The board may authorize the commitment of funds to financial

institutions pursuant to rules adopted by the board, but the determination as to credit with respect to individual investments must be made by the financial institution and the board.

NEW SECTION. Section 11. Rate of return. In calculating the rate of return for any investment to be made from the Montana in-state investment fund, the board shall consider the long-term benefit to the Montana economy.

NEW SECTION. Section 12. Service charges. The board shall by rule establish reasonable service fees that may be charged on loans made from the Montana in-state investment fund.

NEW SECTION. Section 13. Audit and performance evaluation. (1) The board shall contract for an annual independent financial audit of the board and the Montana in-state investment fund.

(2) The board shall contract for biennial independent operational and performance evaluations of the board and the Montana in-state investment fund.

NEW SECTION. Section 14. Reports and publications. (1) By September 30 of each year, the board shall publish a report for distribution to the governor, the legislature, and the public. The report must be written in easily understandable language. The report must include:

(a) financial statements audited by independent

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auditors;

(b) a statement of the amount of money received by the Montana in-state investment fund from each investment during the period covered;

(c) a statement of investments of the Montana in-state investment fund, including an appraisal at market value;

(d) a description of investment activity during the period covered by the report;

(e) a comparison of the Montana in-state investment fund's performance in relation to intended goals contained in [section 1 of Initiative 95];

(f) an examination of the impact of the investment criteria of [sections 5 and 6];

(g) recommendations of any needed changes; and

(h) any other information the board believes would be of interest to the governor, the legislature, and the public.

(2) The annual income statement and balance sheet of the Montana in-state investment fund must be published in at least one newspaper in each judicial district of the state by October 30 of each year.

NEW SECTION. Section 15. Report on potential uses of coal tax trust fund. The board shall prepare for each regular session of the legislature a report on potential uses of the coal tax trust fund to develop a stable, strong,

HB 100

and diversified Montana economy that meets the needs of present and future generations of Montanans while maintaining and improving a clean and healthful environment as required by Article IX, section 1, of the Montana constitution.

NEW SECTION. Section 16. Rulemaking authority. The board may adopt rules to implement the provisions of [sections 1 through 16] and 17-6-211(5). Rules adopted by the board may include definitions of small- and medium-sized businesses, a method of committing funds to financial institutions, types of service fees, and types of investments to be made. The board may also adopt procedural rules to govern its proceedings.

~~NEW SECTION. Section 17. Economic development oversight committee. (1) There is an economic development oversight committee.~~

~~(2) The committee consists of:~~

~~(a) four members of the senate, appointed by the committee on committees; and~~

~~(b) four members of the house of representatives, appointed by the speaker of the house.~~

~~(3) No more than two members from each house may be of the same political party.~~

~~(4) Members of the committee must be appointed before the 90th legislative day of a regular session.~~

~~(5) Appointments to the committee are for 2 years. A member of the committee serves until his term of office as a legislator is ended or his successor is appointed, whichever occurs first.~~

~~(6) Vacancies must be filled in the manner specified in 5-10-104 for filling vacancies on the revenue oversight committee.~~

~~(7) The committee shall elect one of its members as chairman and any other officers it considers necessary.~~

~~NEW SECTION. Section 18. Powers and duties of committee. (1) All rules proposed by the Montana economic development board, created in [section 19], and filed with the secretary of state must be reviewed by the committee.~~

~~(2) The committee may:~~

~~(a) prepare written or oral recommendations for the adoption, amendment, or rejection of a rule and submit the recommendations to the board, whether or not a rulemaking hearing is to be held;~~

~~(b) require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through 2-4-305;~~

~~(c) recommend to the legislature the repeal, amendment, or adoption of a rule through legislation.~~

~~(3) The committee may investigate and issue reports on any matter concerning economic development or any other area of the Montana economic development board's authority.~~

NEW SECTION. Section 17. Montana economic development board -- allocation -- composition -- quasi-judicial powers. (1) There is a Montana economic development board. Except as otherwise provided in this section, the board is allocated to the department of commerce for administrative purposes only as provided in 2-15-121. The board has authority over its own personnel as provided in [section 20].

(2) The board is composed of seven members, to be appointed by the governor as prescribed in 2-15-124. The board must ~~be broadly representative of the state, seeking to balance professional experience and public interest and accountability including at least one person representing each of the following: the financial community; small business; agriculture; organized labor; and the general public~~ BE BROADLY REPRESENTATIVE OF THE STATE, SEEKING TO BALANCE PROFESSIONAL EXPERTISE AND PUBLIC INTEREST AND ACCOUNTABILITY.

(3) The board is designated as a quasi-judicial board for the purposes of 2-15-124.

(4) The board ~~may~~ SHALL invest the Montana in-state investment fund according to the provisions of [sections 1 through 3 of Initiative 95 and sections 1 through 16] and 17-6-201 and 17-6-211.

NEW SECTION. Section 18. Personnel of board. (1) The

Montana economic development board may employ an investment officer, who will have general responsibility for the selection and management of the board's staff and direction of investment activity. The investment officer serves at the pleasure of the board.

(2) The board may prescribe the duties and annual salary for professional staff positions.

Section 19. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The uniform investment program directed by Article VIII, section 13, of the 1972 Montana constitution to be provided for public funds shall be administered by the board of investments and the Montana economic development board in accordance with the rules provided in this chapter and [sections 1 through 16] and with that degree of judgment and care, under circumstances from time to time prevailing, which ~~men~~ PEOPLE of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived, and preservation of purchasing power of capital during periods of sustained high monetary inflation. Investments by the Montana economic development board are limited to those made from the Montana in-state investment fund and for the purposes set forth in [sections 1 through

16].

(2) All state funds shall be invested and reinvested in securities enumerated in 17-6-211 to the maximum extent consistent with this policy and with the need and timing of cash expenditures for particular purposes.

(3) The board of investments has the sole authority to invest state funds other than the Montana in-state investment fund. No other agency may invest such state funds. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto any investments made under its general supervision.

(4) The board of investments shall:

(a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;

(b) determine the amount of surplus treasury cash to be invested;

(c) determine the type of investment to be made; and

(d) prepare the claim to pay for the investment.

(5) The board of investments may:

(a) execute deeds of conveyance transferring all real property obtained through foreclosure of any investments purchased under the provisions of 17-6-211 when full payment has been received therefor;

(b) direct the withdrawal of any funds deposited by or

for the state treasurer pursuant to 17-6-101 and 17-6-105;

(c) direct the sale of any securities in the program at their full and true value when found necessary to raise money for payments due from the treasury funds for which the securities have been purchased.

(6) The state treasurer shall keep an account of the total of each investment fund and of all the investments belonging to such fund and of the participation of each treasury fund account therein and shall make from time to time such reports with reference thereto as may be directed by the board of investments.

(7) The cost of administering and accounting for each investment fund shall be deducted from the income therefrom, except that such costs of the trust and legacy fund shall be paid from income otherwise receivable from the pooled investment fund, and the amounts required for this purpose shall be appropriated by the legislature from the respective investment funds."

Section 20. Section 17-6-211, MCA, is amended to read:

"17-6-211. Permissible investments. (1) The following securities are permissible investments for all investment funds referred to in 17-6-203, except as indicated:

(a) any securities authorized to be pledged to secure deposits of public funds under 17-6-103;

(b) bonds, notes, debentures, equipment obligations,

or any other kind of absolute obligation of any corporation organized and operating in any state of the United States or in Canada, if the obligations purchased are payable in United States dollars, or of any corporation in which the United States government is a voting shareholder by act of congress; provided that all investments under this subsection (b) must be rated by one nationally recognized rating agency among the top third of their quality categories, not applicable to defaulted bonds;

(c) commercial paper of prime quality, as defined by one nationally recognized rating agency, issued by any corporation organized and operating in any state of the United States, provided that:

(i) such securities mature in 270 days or less;

(ii) the issuing corporation or the parent company of a finance subsidiary issuing commercial paper, at the time of the last financial reporting period, had a ratio of current assets to current liabilities, including among current liabilities long-term debt maturing within 1 year, of at least 1 1/2 to 1 and had received net income averaging $1 million or more annually for the preceding 5 years; and

(iii) no investment may be made at any time under this subsection (c) which would cause the book value of such investments in any investment fund to exceed 10% of the book value of such fund or would cause the commercial paper of

any one corporation to exceed 2% of the book value of such fund;

(d) bankers' acceptances guaranteed by any bank having its principal office in any state of the United States and having deposits in excess of $500 million;

(e) interest-bearing deposits in banks, building and loan associations, and savings and loan associations located in Montana, provided, however, that the board of investments shall require pledged securities as specified in 17-6-102 (interest on said deposits shall not be less than the prevailing rate of interest being paid on deposits of private funds);

(f) unencumbered real property, first mortgages, and participations in first mortgages on unencumbered real property, provided that:

(i) no such mortgage or mortgage participation may be purchased unless:

(A) the principal amount of the loan secured by the mortgage or mortgage participation is 80% or less of the appraised value of the property;

(B) the principal amount of the loan secured by the mortgage or mortgage participation exceeds 80% of the appraised value of the property but the amount of the loan in excess of 80%, determined at the time the loan was made, is guaranteed or insured by a mortgage insurance company

which the board of investments has determined to be a qualified private insurer;

(C) 25% or more of the loan or participation therein secured is guaranteed or insured in the event of default by the United States of America or an agency thereof; or

(D) the mortgagor has leased the mortgaged property to a person, firm, or corporation whose rental payments under the lease are guaranteed for the full term of the loan or participation therein by an agency of the United States; and

(ii) no investment shall be made at any time under subsection (1)(f) which would cause the book value of such investments in any investment fund to exceed 50% of the book value of such fund.

(2) Investments from the pooled investment fund shall be restricted to fixed income securities described in subsections (1)(a) to (1)(e) above.

(3) Retirement funds and the fund provided for in 17-6-203, subsection (4) may be invested in preferred and common stocks of any corporation organized and operating in any state of the United States provided that:

(a) the corporation has assets of a value not less than $10 million;

(b) if the investment is preferred stock, the corporation's aggregate earnings available for payment of interest and preferred dividends, for a period of 5

consecutive years immediately before the date of investment, have been at least 1 1/2 times the aggregate of interest and preferred dividends required to be paid during this period;

(c) no investment may be made at any time under subsection (3) which would cause the book value of such investments in any retirement fund to exceed 50% of the book value of such fund or would cause the stock of one corporation to exceed 2% of the book value of such retirement fund;

(d) subsection (c) does not apply to funds provided for in 17-6-203(4).

(4) The board of investments shall endeavor to direct its portion of the state's investment business to those investment firms and/or banks which maintain offices in the state and thereby make contributions to the state economy. Further, due consideration shall be given to investments which will benefit the smaller communities in the state. The state's investment business will be directed to out-of-state firms only when there is a distinct economic advantage to the state of Montana.

(5) The Montana economic development board created in [section 12] may invest the Montana in-state investment fund in any in-state investment authorized by its rules in addition to those investments authorized by this section."

NEW SECTION. Section 21. Temporary investment limit.

Notwithstanding the percentage figure in [section 8], the investment limit for fiscal year 1984 must be calculated based on 25% of the total coal tax deposits to the permanent coal tax trust fund made in fiscal year 1983.

NEW SECTION. Section 22. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 23. Effective date. This act is effective on passage and approval.

-End-

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April 20, 1983

FREE CONFERENCE COMMITTEE
HOUSE BILL 100
(Report No. 2)

Mr. Speaker:

We, your Free Conference Committee on House Bill 100, met and considered:

House Bill 100, third reading copy (Blue);
Senate Standing Committee amendments of March 23, 1983; and
Senate Committee of the Whole amendments of March 26, 1983.

We respectfully recommend as follows:

That the House accede to Senate Standing Committee amendments 3, 4, 5, 7, and 8;

That the Senate recede from Senate Standing Committee amendments 1, 2, and 6;

That the House accede to Senate Committee of the Whole amendments amending the Senate Standing Committee Report and striking sections 17 and 18;

That the Senate recede from the remainder of the Senate Committee of the Whole amendments dated March 26, 1983;

That House Bill 100 be further amended as specified in Clerical Instructions 1 through 5; and

That this Free Conference Committee report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

1. Page 4, line 15.
Following: "~~shall~~"
Strike: "~~MAY~~"
Insert: "shall"

2. Page 4, line 23.
Following: "emphasis on"
Strike: the remainder of line 23 through line 24 in its entirety
Insert: "energy efficiency;"

3. Page 5, line 6.
Following: "~~HAVE~~"
Strike: "~~DEMONSTRABLE~~"

CK

Chairman.

STATE PUB. CO.
Helena, Mont.

4. Page 5, line 11.
Following: line 10
Insert: "(7) Nothing in this section shall give rise to a civil action against a financial institution or lender."

5. Page 11, line 18.
Following: "ACCOUNTABILITY"
Insert: "and shall include at least one person representing each of the following:
(a) the financial community;
(b) small business
(c) agriculture; and
(d) labor."

FOR THE HOUSE

KEMMIS, CHAIR

VINCENT

FABREGA

FOR THE SENATE

ELLIOTT, CHAIR

DOVER

VAN VALKENBURG

STATE PUB. CO.
Helena, Mont.

STATE PUBLISHING CO. HELENA MONTANA

April 21, 1983

19

NEW FREE CONFERENCE COMMITTEE
HOUSE BILL 100
(Report No. 3)

Mr. Speaker:

We, your Free Conference Committee on House Bill 100, met and considered:

House Bill 100, third reading copy (Blue);
Senate Standing Committee amendments of March 23, 1983; and
Senate Committee of the Whole amendments of March 26, 1983.

We respectfully recommend as follows:

That the House accede to Senate Standing Committee amendments 3, 4, 5, 7, and 8;
That the Senate recede from Senate Standing Committee amendments 1, 2, and 6;
That the House accede to Senate Committee of the Whole amendments amending the Senate Standing Committee Report and striking sections 17 and 18;
That the Senate recede from the remainder of the Senate Committee of the Whole amendments dated March 26, 1983;
That House Bill 100 be further amended as specified in Clerical Instructions 1 through 4; and
That this Free Conference Committee report be adopted.

CLERICAL INSTRUCTIONS FOR REFERENCE COPY (SALMON)

1. Page 4, line 15.
Following: "~~shall~~"
Strike: "~~MAY~~"
Insert: "shall"

2. Page 4, line 23.
Following: "emphasis on"
Strike: the remainder of line 23 through line 24 in its entirety
Insert: "energy efficiency;"

3. Page 5, line 6.
Strike: subsection 5
Renumber: subsequent subsection

Chairman

STATE PUBLISHING CO. HELENA MONTANA

19

4. Page 11, line 18.
Following: "ACCOUNTABILITY"
Insert: "and shall include at least one person representing each of the following:
(a) the financial community;
(b) small business
(c) agriculture; and
(d) labor."

FOR THE HOUSE

KEMMIS, CHAIR

VINCENT

FABREGA

FOR THE SENATE

ELLIOTT, CHAIR

DOVER

VAN VALKENBURG

Chairman

STATEMENT OF INTENT

HOUSE BILL 100

House Economic Development Committee

(1) A statement of intent is required for this bill because it grants rulemaking authority to the Montana economic development board in section 16. These rules will include definitions of small- and medium-sized businesses, a method of commitment of funds to financial institutions, setting service fees for loans, defining types of permissible investments, and procedural rules to govern the board's proceedings.

(2) It is the intent of the legislature that:

(a) the definitions of small- and medium-sized business be based on either the number of employees of the business, the level of capitalization of the business, or a combination of these factors;

(b) the method of committing funds to financial institutions be similar to the method utilized by the board of housing for committing funds for housing developments to financial institutions;

(c) the level of service fees be set to cover the costs associated with processing the investment and be similar to those charged by financial institutions;

(d) the permissible investments adopted by rules be based on the long-term benefit to the Montana economy and adhere to the prudent-man rule. The investments should be aimed at diversifying, strengthening, and stabilizing the Montana economy and increasing employment opportunities while maintaining and improving a clean and healthful environment; and

(e) the procedural rules be based on the Attorney General's model rules.

REFERENCE BILL: Includes Free Joint Conference Committee Report
Dated 4-21-83

HOUSE BILL NO. 100

INTRODUCED BY KEMMIS, TOWE, VINCENT, HARRINGTON, METCALF, HARPER, SCHYE, DARKO, HANSEN, J. HAMMOND, KADAS, VELEBER, WALDRON, MENAHAN, J. JENSEN, SAUNDERS, MCBRIDE, NISBET, D. BROWN, SCHULTZ, REAM, BACHINI, PECK, FARRIS, O'CONNELL, NILSON, J. BROWN, CONNELLY, LYBECK, KEENAN, ZABROCKI, MCCORMICK, HOWE, DRISCOLL, DAILY, PAVLOVICH, HOLLIDAY, BENGTSON, KENNERLY, SHONTZ, YARDLEY, SPAETH, WILLIAMS, ADDY, NEUMAN, BARDANOUVE, ROUSH, KOEHNKE, FABREGA, BERTELSEN, FAGG, BERGENE, MILLER, HEMSTAD, STIMATZ, HARP, HALLIGAN, ERNST, CRIPPEN, VAN VALKENBURG, ECK, JACOBSON, CONOVER, BERG, MOHAR, MAZUREK, HAFFEY, CHRISTIAENS, LANE, DANIELS, THOMAS, R. MANNING, HAGER

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO IMPLEMENT SECTION 3 OF INITIATIVE 95; CREATING AN IN-STATE INVESTMENT FUND TO BE ADMINISTERED BY THE MONTANA ECONOMIC DEVELOPMENT BOARD; PROVIDING FOR TYPES OF INVESTMENTS TO BE MADE; AMENDING SECTIONS 17-6-201 AND 17-6-211, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

HB 0100/05

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Short title. This act may be cited as the "Montana In-State Investment Act of 1983".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 16 and Initiative 95 approved by the people at the election on November 2, 1982], unless the context requires otherwise, the following definitions apply:

(1) "Board" means the Montana economic development board established in [section 19].

(2) "Clean and healthful environment" means an environment that is ~~relatively free from pollution which threatens human health, including as~~ AT RELATIVELY FREE FROM POLLUTION WHICH THREATENS HUMAN HEALTH, INCLUDING AS a minimum, ~~IN~~ compliance with federal and state environmental and health standards.

(3) "Committee" means the economic development oversight committee created by [section 17].

(4) "Financial institution" includes but is not limited to a state- or federally chartered bank or a savings and loan association, credit union, ~~insurance company,~~ OR development ~~company, or investment banking company~~ CORPORATION CREATED PURSUANT TO TITLE 32, CHAPTER 4.

(5) "Loan participation" means loans or portions thereof bought from a financial institution.

(6) "Locally owned enterprise" means any enterprise

51% of whose stock, partnership interests, or other ownership interests are owned and controlled by residents of Montana.

(7) "Long-term benefit to the Montana economy" means an activity that ~~diversifies and stabilizes~~ STRENGTHENS the Montana economy and that has the potential to maintain and create jobs, increase per capita income, or increase Montana tax revenues in the future to the people of Montana, either directly or indirectly.

(8) "Montana economy" means any business activity in the state of Montana, including those which continue existing jobs or create new jobs in Montana.

(9) "Montana in-state investment fund" means the fund established by [section 3 of Initiative 95].

(10) "Service fees" means the fees normally charged by a financial institution for servicing a loan, including amounts charged for collecting payments and remitting amounts to the fund.

NEW SECTION. Section 3. Montana in-state investment fund. The Montana in-state investment fund consists of 25% of the revenue deposited after June 30, 1983, into the permanent coal tax trust fund established in 17-6-203(5) and the principal ~~and interest~~ payments on all investments made from the Montana in-state investment fund.

NEW SECTION. Section 4. Unified investment program.

The Montana economic development board and the board of investments shall hold joint meetings at least twice a year as a unified investment board for purposes of coordinating investment strategies, policies, and programs as required by Article VIII, section 13, of the Montana constitution.

NEW SECTION. Section 5. Authorized investments. The Montana in-state investment fund must be invested in the securities authorized as permissible investments under 17-6-211 and in any other type of in-state investment authorized by rules adopted by the board.

~~NEW SECTION. Section 6. Investment preferences. In deciding which of several investments of equal or comparable security AND RETURN are to be made WHEN SUFFICIENT FUNDS ARE NOT AVAILABLE TO FUND ALL POSSIBLE INVESTMENTS, the board shall~~ MAY ~~give preference to the business investments that:~~

~~(1) are for locally owned enterprises that are either expanding or establishing new operations;~~

~~(2) provide jobs that will be substantially filled by current Montana residents as opposed to providing jobs that will be filled by nonresidents coming into the state to fill such jobs;~~

~~(3) maintain and improve a clean and healthful environment with emphasis on conservation, renewable resources, and alternative energy production; and~~

~~(4) ENCOURAGE OR BENEFIT THE PROCESSING, REFINING,~~

~~MARKETING, AND INNOVATIVE USE AND PROMOTION OF MONTANA'S AGRICULTURAL PRODUCTS;~~

~~(5) PAY THE PREVAILING WAGE FOR THAT OCCUPATION, OR UTILIZE CONTRACTORS WHO PAY THE PREVAILING WAGE, FOR ANY CONSTRUCTION MADE POSSIBLE BY STATE INVESTMENT;~~

~~(6)(5) HAVE DEMONSTRABLE AFFIRMATIVE ACTION PLANS FOR EMPLOYING VETERANS, WOMEN, MINORITIES, AND THE HANDICAPPED; OR~~

~~(4)(7)(6) benefit small and medium-sized businesses as defined in rules adopted by the board.~~

~~THERE IS A NEW MCA SECTION THAT READS:~~

~~Section 6. Investment preferences. (1) The provisions of Article II, section 4, of the Montana constitution prohibiting discrimination shall be strictly applied with relation to any investment made under [this act].~~

~~(2) The IN DECIDING WHICH OF SEVERAL INVESTMENTS OF EQUAL OR COMPARABLE SECURITY AND RETURN ARE TO BE MADE, THE board shall give preference to the business investments that:~~

~~(a) are for locally owned enterprises that are either expanding existing operations or establishing new operations; and~~

~~(b) provide jobs that will be substantially filled by current Montana residents.~~

~~(3) Preference shall be given to small and~~

~~medium-sized businesses as defined in rules adopted by the board.~~

~~(4) THE BOARD SHALL GIVE PREFERENCE TO THE BUSINESS INVESTMENTS THAT MAINTAIN AND IMPROVE A CLEAN AND HEALTHFUL ENVIRONMENT.~~

NEW SECTION. Section 6. Investment preferences. In deciding which of several investments of equal or comparable security AND RETURN are to be made WHEN SUFFICIENT FUNDS ARE NOT AVAILABLE TO FUND ALL POSSIBLE INVESTMENTS, the board ~~shall~~ MAY SHALL give preference to the business investments that:

(1) are for locally owned enterprises that are either expanding or establishing new operations;

(2) provide jobs that will be substantially filled by current Montana residents as opposed to providing jobs that will be filled by nonresidents coming into the state to fill such jobs;

(3) maintain and improve a clean and healthful environment, with emphasis on ~~conservation, renewable resources, and alternative energy production~~ ENERGY EFFICIENCY; ~~and~~

(4) ENCOURAGE OR BENEFIT THE PROCESSING, REFINING, MARKETING, AND INNOVATIVE USE AND PROMOTION OF MONTANA'S AGRICULTURAL PRODUCTS;

~~(5) PAY THE PREVAILING WAGE FOR THAT OCCUPATION, OR~~

~~UTILIZE CONTRACTORS WHO PAY THE PREVAILING WAGE FOR ANY CONSTRUCTION MADE POSSIBLE BY STATE INVESTMENTS~~

~~(iii) HAVE DEMONSTRABLE AFFIRMATIVE ACTION PLANS FOR EMPLOYING VETERANS, WOMEN, MINORITIES, AND THE HANDICAPPED~~ OR

~~(iv)~~ (6)(5) benefit small- and medium-sized businesses as defined in rules adopted by the board.

NEW SECTION. Section 7. No direct loans. No money from the Montana in-state investment fund may be used to make direct loans to individual borrowers. Loans or portions thereof originated by a financial institution that are sold to the trust are not direct loans.

NEW SECTION. Section 8. Limitation on size of investments. No investment may be made that will result in any one business enterprise or person receiving a benefit from or incurring a debt to the Montana in-state investment fund the total current accumulated amount of which exceeds 10% of the prior fiscal year's coal severance tax revenue deposited in the Montana in-state investment fund.

NEW SECTION. Section 9. State participation in loans. State participation in any loan to a business enterprise, except for a loan guaranteed by a federal agency, must be limited to 80% of the outstanding loan. The state shall participate in the security for a loan in the same proportion as the loan participation amount.

NEW SECTION. Section 10. Prior commitment of funds. The board may authorize the commitment of funds to financial institutions pursuant to rules adopted by the board, but the determination as to credit with respect to individual investments must be made by the financial institution and the board.

NEW SECTION. Section 11. Rate of return. In calculating the rate of return for any investment to be made from the Montana in-state investment fund, the board shall consider the long-term benefit to the Montana economy.

NEW SECTION. Section 12. Service charges. The board shall by rule establish reasonable service fees that may be charged on loans made from the Montana in-state investment fund.

NEW SECTION. Section 13. Audit and performance evaluation. (1) The board shall contract for an annual independent financial audit of the board and the Montana in-state investment fund.

(2) The board shall contract for biennial independent operational and performance evaluations of the board and the Montana in-state investment fund.

NEW SECTION. Section 14. Reports and publications. (1) By September 30 of each year, the board shall publish a report for distribution to the governor, the legislature, and the public. The report must be written in easily

understandable language. The report must include:

(a) financial statements audited by independent auditors;

(b) a statement of the amount of money received by the Montana in-state investment fund from each investment during the period covered;

(c) a statement of investments of the Montana in-state investment fund, including an appraisal at market value;

(d) a description of investment activity during the period covered by the report;

(e) a comparison of the Montana in-state investment fund's performance in relation to intended goals contained in [section 1 of Initiative 95];

(f) an examination of the impact of the investment criteria of [sections 5 and 6];

(g) recommendations of any needed changes; and

(h) any other information the board believes would be of interest to the governor, the legislature, and the public.

(2) The annual income statement and balance sheet of the Montana in-state investment fund must be published in at least one newspaper in each judicial district of the state by October 30 of each year.

NEW SECTION. Section 15. Report on potential uses of coal tax trust fund. The board shall prepare for each

regular session of the legislature a report on potential uses of the coal tax trust fund to develop a stable, strong, and diversified Montana economy that meets the needs of present and future generations of Montanans while maintaining and improving a clean and healthful environment as required by Article IX, section 1, of the Montana constitution.

NEW SECTION. Section 16. Rulemaking authority. The board may adopt rules to implement the provisions of [sections 1 through 16] and 17-6-211(5). Rules adopted by the board may include definitions of small- and medium-sized businesses, a method of committing funds to financial institutions, types of service fees, and types of investments to be made. The board may also adopt procedural rules to govern its proceedings.

~~NEW SECTION. Section 17. Economic development oversight committee. (1) There is an economic development oversight committee.~~

~~(2) The committee consists of:~~

~~(a) four members of the senate, appointed by the committee on committees; and~~

~~(b) four members of the house of representatives, appointed by the speaker of the house.~~

~~(3) No more than two members from each house may be of the same political party.~~

~~(4)--Members--of-the-committee-must-be-appointed-before the-90th-legislative-day-of-a-regular-session.~~

~~(5)--Appointments-to-the-committee-are-for-2--years.--A member-of-the-committee-serves-until-his-term-of-office-as-a legislator-is-ended-or-his-successor-is-appointed,-whichever occurs-first.~~

~~(6)--Vacancies--must--be-filled-in-the-manner-specified in-5-18-104-for-filling-vacancies-on-the--revenue--oversight committees.~~

~~(7)--The--committee--shall--elect-one-of-its-members-as chairman-and-any-other-officers-it-considers-necessary.~~

~~NEW-SECTION.--Section-18.--Powers---and----duties-----of committees.---(1)--All-rules-proposed-by-the-Montana-economic development-board,-created-in-[section-19],-and--filed--with the-secretary-of-state-must-be-reviewed-by-the-committee.~~

~~(2)--The-committee-may:~~

~~(a)--prepare--written--or--oral-recommendations-for-the adoption,-amendment,-or-rejection-of-a-rule-and--submit--the recommendations--to--the--board,-whether-or-not-a-rulemaking hearing-is-to-be-held;~~

~~(b)--require-that--a--rulemaking--hearing--be--held--in accordance--with--the-provisions-of-2-4-302-through-2-4-305;~~

~~(c)--recommend---to---the---legislature---the---repeal, amendment,-or-adoption-of-a-rule-through-legislation.~~

~~(3)--The-committee-may-investigate-and-issue-reports-on~~

~~any-matter-concerning-economic-development-or-any-other-area of-the-Montana-economic-development-board's-authority.~~

NEW SECTION. Section 17. Montana economic development board -- allocation -- composition -- quasi-judicial powers. (1) There is a Montana economic development board. Except as otherwise provided in this section, the board is allocated to the department of commerce for administrative purposes only as provided in 2-15-121. The board has authority over its own personnel as provided in [section 20].

(2) The board is composed of seven members, to be appointed by the governor as prescribed in 2-15-124. The board must be ~~broadly-representative-of-the-state,-seeking to-balance-professional-experience-and-public~~ INTEREST--AND accountability INCLUDE AT LEAST ONE PERSON REPRESENTING EACH OF ~~THE--FOLLOWING:--THE-FINANCIAL-COMMUNITY,--SMALL-BUSINESS, AGRICULTURE,--ORGANIZED-LABOR,--AND--THE--GENERAL--PUBLIC~~ BE BROADLY REPRESENTATIVE OF THE STATE, SEEKING TO BALANCE PROFESSIONAL EXPERTISE AND PUBLIC INTEREST AND ACCOUNTABILITY AND SHALL INCLUDE AT LEAST ONE PERSON REPRESENTING EACH OF THE FOLLOWING:

(A) THE FINANCIAL COMMUNITY;

(B) SMALL BUSINESS;

(C) AGRICULTURE; AND

(D) LABOR.

(3) The board is designated as a quasi-judicial board for the purposes of 2-15-124.

(4) The board ~~may~~ SHALL invest the Montana in-state investment fund according to the provisions of [sections 1 through 3 of Initiative 95 and sections 1 through 16] and 17-6-201 and 17-6-211.

NEW SECTION. Section 18. Personnel of board. (1) The Montana economic development board may employ an investment officer, who will have general responsibility for the selection and management of the board's staff and direction of investment activity. The investment officer serves at the pleasure of the board.

(2) The board may prescribe the duties and annual salary for professional staff positions.

Section 19. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The uniform investment program directed by Article VIII, section 13, of the 1972 Montana constitution to be provided for public funds shall be administered by the board of investments and the Montana economic development board in accordance with the rules provided in this chapter and [sections 1 through 16] and with that degree of judgment and care, under circumstances from time to time prevailing, which ~~men~~ PEOPLE of prudence, discretion, and intelligence exercise in the management of their own affairs, not for

speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived, and preservation of purchasing power of capital during periods of sustained high monetary inflation. Investments by the Montana economic development board are limited to those made from the Montana in-state investment fund and for the purposes set forth in [sections 1 through 16].

(2) All state funds shall be invested and reinvested in securities enumerated in 17-6-211 to the maximum extent consistent with this policy and with the need and timing of cash expenditures for particular purposes.

(3) The board of investments has the sole authority to invest state funds other than the Montana in-state investment fund. No other agency may invest such state funds. The board shall direct the investment of state funds in accordance with the laws and constitution of this state. The board has the power to veto any investments made under its general supervision.

(4) The board of investments shall:

(a) assist agencies with public money to determine if, when, and how much surplus cash is available for investment;

(b) determine the amount of surplus treasury cash to be invested;

(c) determine the type of investment to be made; and

(d) prepare the claim to pay for the investment.

(5) The board of investments may:

(a) execute deeds of conveyance transferring all real property obtained through foreclosure of any investments purchased under the provisions of 17-6-211 when full payment has been received therefor;

(b) direct the withdrawal of any funds deposited by or for the state treasurer pursuant to 17-6-101 and 17-6-105;

(c) direct the sale of any securities in the program at their full and true value when found necessary to raise money for payments due from the treasury funds for which the securities have been purchased.

(6) The state treasurer shall keep an account of the total of each investment fund and of all the investments belonging to such fund and of the participation of each treasury fund account therein and shall make from time to time such reports with reference thereto as may be directed by the board of investments.

(7) The cost of administering and accounting for each investment fund shall be deducted from the income therefrom, except that such costs of the trust and legacy fund shall be paid from income otherwise receivable from the pooled investment fund, and the amounts required for this purpose shall be appropriated by the legislature from the respective investment funds."

Section 20. Section 17-6-211, MCA, is amended to read:

"17-6-211. Permissible investments. (1) The following securities are permissible investments for all investment funds referred to in 17-6-203, except as indicated:

(a) any securities authorized to be pledged to secure deposits of public funds under 17-6-103;

(b) bonds, notes, debentures, equipment obligations, or any other kind of absolute obligation of any corporation organized and operating in any state of the United States or in Canada, if the obligations purchased are payable in United States dollars, or of any corporation in which the United States government is a voting shareholder by act of congress; provided that all investments under this subsection (b) must be rated by one nationally recognized rating agency among the top third of their quality categories, not applicable to defaulted bonds;

(c) commercial paper of prime quality, as defined by one nationally recognized rating agency, issued by any corporation organized and operating in any state of the United States, provided that:

(i) such securities mature in 270 days or less;

(ii) the issuing corporation or the parent company of a finance subsidiary issuing commercial paper, at the time of the last financial reporting period, had a ratio of current assets to current liabilities, including among current

liabilities long-term debt maturing within 1 year, of at least 1 1/2 to 1 and had received net income averaging $1 million or more annually for the preceding 5 years; and

(iii) no investment may be made at any time under this subsection (c) which would cause the book value of such investments in any investment fund to exceed 10% of the book value of such fund or would cause the commercial paper of any one corporation to exceed 2% of the book value of such fund;

(d) bankers' acceptances guaranteed by any bank having its principal office in any state of the United States and having deposits in excess of $500 million;

(e) interest-bearing deposits in banks, building and loan associations, and savings and loan associations located in Montana, provided, however, that the board of investments shall require pledged securities as specified in 17-6-102 (interest on said deposits shall not be less than the prevailing rate of interest being paid on deposits of private funds);

(f) unencumbered real property, first mortgages, and participations in first mortgages on unencumbered real property, provided that:

(i) no such mortgage or mortgage participation may be purchased unless:

(A) the principal amount of the loan secured by the

mortgage or mortgage participation is 80% or less of the appraised value of the property;

(B) the principal amount of the loan secured by the mortgage or mortgage participation exceeds 80% of the appraised value of the property but the amount of the loan in excess of 80%, determined at the time the loan was made, is guaranteed or insured by a mortgage insurance company which the board of investments has determined to be a qualified private insurer;

(C) 25% or more of the loan or participation therein secured is guaranteed or insured in the event of default by the United States of America or an agency thereof; or

(D) the mortgagor has leased the mortgaged property to a person, firm, or corporation whose rental payments under the lease are guaranteed for the full term of the loan or participation therein by an agency of the United States; and

(ii) no investment shall be made at any time under subsection (1)(f) which would cause the book value of such investments in any investment fund to exceed 50% of the book value of such fund.

(2) Investments from the pooled investment fund shall be restricted to fixed income securities described in subsections (1)(a) to (1)(e) above.

(3) Retirement funds and the fund provided for in 17-6-203, subsection (4) may be invested in preferred and

common stocks of any corporation organized and operating in any state of the United States provided that:

(a) the corporation has assets of a value not less than $10 million;

(b) if the investment is preferred stock, the corporation's aggregate earnings available for payment of interest and preferred dividends, for a period of 5 consecutive years immediately before the date of investment, have been at least 1 1/2 times the aggregate of interest and preferred dividends required to be paid during this period;

(c) no investment may be made at any time under subsection (3) which would cause the book value of such investments in any retirement fund to exceed 50% of the book value of such fund or would cause the stock of one corporation to exceed 2% of the book value of such retirement fund;

(d) subsection (c) does not apply to funds provided for in 17-6-203(4).

(4) The board of investments shall endeavor to direct its portion of the state's investment business to those investment firms and/or banks which maintain offices in the state and thereby make contributions to the state economy. Further, due consideration shall be given to investments which will benefit the smaller communities in the state. The state's investment business will be directed to out-of-state

firms only when there is a distinct economic advantage to the state of Montana.

(5) The Montana economic development board created in [section 19] may invest the Montana in-state investment fund in any in-state investment authorized by its rules in addition to those investments authorized by this section."

NEW SECTION. Section 21. Temporary investment limit. Notwithstanding the percentage figure in [section 8], the investment limit for fiscal year 1984 must be calculated based on 25% of the total coal tax deposits to the permanent coal tax trust fund made in fiscal year 1983.

NEW SECTION. Section 22. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 23. Effective date. This act is effective on passage and approval.

-End-